



**THE CITY OF SAN DIEGO**

**M E M O R A N D U M**

DATE: October 31, 2019

TO: City of San Diego Planning Commission

FROM: Jeffrey A. Peterson, Development Project Manager, Development Services  
Department

SUBJECT: Courthouse Commons Tunnel Project No. 634065, Planning Commission agenda for  
November 7, 2019.

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The Candidate's CEQA Findings of Fact (Exhibit A), were not available at the time the Report to the Planning Commission went to print. The attached Environmental Resolution has been revised to include Exhibit A.



Jeffrey A. Peterson

cc: Project File No. 634065



RESOLUTION NUMBER \_\_\_\_\_

ADOPTED ON \_\_\_\_\_

RESOLUTION CERTIFYING THAT THE CITY COUNCIL OF THE CITY OF SAN DIEGO, AS A RESPONSIBLE AGENCY, HAS REVIEW AND CONSIDERED THE INFORMATION CONTAINED IN THE FINAL ENVIRONMENTAL IMPACT REPORT (EIR) SCH NO. 2000021015 FOR THE NEW SAN DIEGO CENTRAL COURTHOUSE FOR THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO THAT WAS PREPARED AND CERTIFIED BY THE CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS, AS LEAD AGENCY, AND ADOPTED FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN APPROVING ACTIONS RELATED TO SITE DEVELOPMENT PERMIT NO. 2279389 [MMRP].

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) Guidelines (California Code of Regulations Chapter 3, Division 6, Title 14; Article 6, sections 15070 to 15075), the State of California (the "State") Administrative Office of the Courts (the "AOC"), staff agency to the Judicial Council of California, as the lead agency for the construction of the New San Diego Central Courthouse Project in downtown San Diego and operation of the facility for the Superior Court of California, County of San Diego, which included the Courthouse Commons Tunnel Project (the Project), prepared an Environmental Impact Report (SCH No. 2000021015) which documents, describes, discloses, and analyzes the environmental impacts of the Project; and

WHEREAS, in December 2010, the AOC duly certified the Final Environmental Impact Report (SCH No. 2000021015) (Final EIR) for the Project; and

WHEREAS, in December 2010, the AOC adopted Findings of Fact as required by CEQA, together with a Mitigation Monitoring and Reporting Program and also approved the Project; and

WHEREAS, on April 8, 2019, Holland Acquisition Co., LLC and The County of San Diego submitted a Site Development Permit application (Project No. 634065) to the Development Services Department for approval of the Project; and

WHEREAS, the City, with respect to the Site Development Permit (Project No. 634065), is a responsible agency for the Project as provided in CEQA Guidelines section 15069; and

WHEREAS, prior to taking discretionary actions for approval of the Site Development Permit (Project No. 634065), including the construction and any other approvals to implement the Project by the City as a responsible agency under CEQA, the City Council desires to make certain findings pursuant to CEQA Guidelines 15050, 15091 and 15096; NOW, THEREFORE,

BE IT RESOLVED, by the City of San Diego City Council, as follows:

1. The City has reviewed and considered the information contained in the Final EIR relevant to the City's approval of discretionary actions within the City's jurisdiction necessary for the Project as described in the Final EIR.
2. The City has reviewed and considered the CEQA Findings and the City Council hereby determines and concludes all of the following:
  - a. In certifying the Final EIR, AOC has already identified, analyzed, disclosed and adopted the mitigation measures for the Project;
  - b. The City of San Diego City Council has reviewed and considered the Final EIR together with the related CEQA Findings and determines that the information and analyses contained in the Final EIR, together with the related CEQA Findings, are adequate for the City's use as a responsible agency and for the City's consideration of discretionary actions to approve Site Development Permit (Project No. 634065);
  - c. The City's discretionary action to approve Site Development Permit (Project

No. 634065) are within the scope of the activities described and evaluated in the Final EIR;

- d. The City has not identified a feasible alternative or additional feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect that the Project would have on the environment; and
  - e. Since the Final EIR was certified, there have been no substantial changes to the Project and no substantial changes in Project circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR.
3. The City, as a responsible agency under CEQA, hereby adopts AOC's CEQA Findings for the Final EIR for the Project as its own findings under CEQA to the fullest possible extent that the CEQA Findings are relevant to the City's discretionary action to approve Site Development Permit (Project No. 634065), which is attached hereto as Exhibit A.

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

BE IT FURTHER RESOLVED, that the Development Services Department is directed to file a Notice of Determination with the Clerk of the San Diego County Board of Supervisors following the City's approval of any discretionary action related to the Project.

By: \_\_\_\_\_  
CITY ATTORNEY

XXX:xxx  
0x/0x/xxx  
Or.Dept: DSD  
Doc. No. xxxxxxx

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

**EXHIBIT A**

CANDIDATE'S CEQA FINDINGS OF FACT

SITE DEVELOPMENT PERMIT NO. 2279389

PROJECT NO. 634065

Findings and Statement of Overriding Considerations regarding Final Environmental Impact Report (EIR) SCH No. 2000021015 for the New San Diego Central Courthouse for the Superior Court of California, County of San Diego.

See Following Pages:

## **EXHIBIT B**

### **MITIGATION MONITORING AND REPORTING PROGRAM**

SITE DEVELOPMENT PERMIT NO. 2279389

PROJECT NO. 634065

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the entity responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report for the Courthouse Common Tunnel Project shall be made conditions of Site Development Permit No. 2279389 as may be further described below.

### **MITIGATION MONITORING AND REPORTING PROGRAM**

See Following Pages in Table 1:



NEW SAN DIEGO CENTRAL  
COURTHOUSE:  
*CEQA FINDINGS OF FACT AND  
STATEMENT OF OVERRIDING  
CONSIDERATIONS*

(In compliance with Public Resources Code Sections 21081 and 21081.6 and CEQA Guidelines Sections 15091 and 15093)

**Final Environmental Impact Report**  
(State Clearinghouse Number 2000021015)

**Project Files are Available for Review at:**

Administrative Office of the Courts  
Office of Court Construction and Management  
2860 Gateway Oaks, Suite 400  
Sacramento, California 95833-3509

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## TABLE OF CONTENTS

1.0	INTRODUCTION .....	1
1.1	Purpose.....	1
1.2	Organization Of Findings .....	2
1.3	Summary Of Project Description.....	3
1.4	Project Purpose and Objectives .....	7
1.5	Discretionary Project Approvals.....	7
1.6	Notice Of Preparation .....	7
1.7	Environmental Impact Report.....	9
2.0	FINDINGS FOR THE PROJECT’S IMPACTS THAT ARE LESS THAN SIGNIFICANT OR NO IMPACT .....	12
2.1	Aesthetics and Visual Resources .....	12
2.2	Agricultural Resources.....	17
2.3	Air Quality .....	18
2.4	Biological Resources .....	21
2.5	Cultural Resources .....	23
2.6	Geology, Soils, And Seismicity .....	25
2.7	Hazards and Hazardous Materials .....	29
2.8	Land Use .....	32
2.10	Noise .....	34
2.11	Population and Housing.....	35
2.12	Public Services.....	36
2.13	Recreation .....	38
2.14	Traffic and Circulation.....	39
2.15	Utilities and Service Systems.....	43
2.16	Water Quality and Hydrology.....	47
3.0	FINDINGS FOR THE PROJECT’S IMPACTS THAT ARE POTENTIALLY SIGNIFICANT, BUT ADOPTION OF MITIGATION MEASURES WILL REDUCE PROJECT IMPACTS TO LEVELS THAT ARE LESS THAN SIGNIFICANT .....	49
3.1	Visual Character and Aesthetic Quality.....	49
3.2	Cultural and Historic Resources .....	50
3.3	Geology, Soils, and Seismicity .....	51
3.4	Hazards and Hazardous Materials .....	53
4.0	FINDINGS FOR THE PROJECT’S IMPACTS THAT ARE SIGNIFICANT AND CANNOT BE MITIGATED TO LEVELS THAT ARE LESS THAN SIGNIFICANT .....	56
4.1	Noise .....	56

5.0	FINDINGS FOR THE PROJECT’S CUMULATIVE IMPACTS THAT ARE LESS THAN SIGNIFICANT OR NO IMPACT.....	58
5.1	Aesthetics and Visual Resources Cumulative Impacts .....	58
5.2	Agricultural Resources Cumulative Impacts .....	59
5.3	Air Quality Cumulative Impacts .....	59
5.4	Biological Resources Cumulative Impacts .....	60
5.5	Cultural Resources Cumulative Impacts.....	60
5.6	Geology, Soils, And Seismicity Cumulative Impacts.....	61
5.7	Hazards and Hazardous Materials Cumulative Impacts .....	61
5.8	Land Use and Planning Cumulative Impacts.....	62
5.9	Mineral Resources Cumulative Impacts .....	62
5.10	Noise Cumulative Impacts .....	62
5.11	Population and Housing Cumulative Impacts.....	63
5.12	Public Services Cumulative Impacts .....	64
5.13	Recreation Cumulative Impacts .....	64
5.14	Traffic and Circulation Cumulative Impacts .....	65
5.15	Utilities and Service Systems Cumulative Impacts .....	65
5.16	Water Quality and Hydrology.....	66
6.0	FEASIBILITY OF PROJECT ALTERNATIVES .....	68
6.1	Introduction.....	68
6.2	No Project Alternative .....	69
6.3	Reduced Project Alternative .....	72
6.4	Alternate Site Alternative .....	74
6.5	Alternative Project Sites .....	75
7.0	NO SIGNIFICANT NEW INFORMATION REQUIRING RE-CIRCULATION OF THE EIR .....	78
8.0	MITIGATION MONITORING AND REPORTING PLAN .....	80
9.0	CUSTODIAN OF RECORD .....	82
10.0	STATEMENT OF OVERRIDING CONSIDERATIONS .....	84

## TABLES

Table 6-1	Summary of the Proposed Project’s Impacts and the Alternatives’ Impacts ...	77
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## 1.0 INTRODUCTION

### 1.1 PURPOSE

The Administrative Office of the Courts (AOC) prepared this statement of findings and overriding considerations to address the environmental effects of the New San Diego Central Courthouse ("the proposed project") in the City of San Diego. This statement provides compliance with the California Environmental Quality Act (CEQA), specifically Public Resources Code sections 21081 and 21081.6, and the CEQA Guidelines, specifically California Code of Regulations, Title 14, sections 15091 and 15093. The AOC hereby finds and certifies that the Final Environmental Impact Report ("Final EIR") for the proposed project, consisting of the Draft EIR, the comments and responses to comments, and all technical appendices, has been prepared in compliance with CEQA and the CEQA Guidelines.

Public Resources Code Section 21081 and CEQA Guidelines Section 15091 require lead agencies to prepare written findings for identified significant impacts with a brief explanation of the rationale for each finding. CEQA Guidelines section 15091 states, in part, that:

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects accompanied by a brief explanation of the rationale for each finding. The possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

In accordance with Public Resources Code Section 21081 and CEQA Guidelines Section 15093, whenever significant impacts cannot be mitigated to below a level of significance, the public agency is required to balance the benefits of the proposed project against its unavoidable environmental risks when determining whether to approve the project. If the benefits of the project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable."

The AOC's Final EIR for the proposed project identified the project's potentially significant effects. The AOC finds that the inclusion of certain mitigation measures as part of the project approval will reduce most of those effects to less than significant levels. For those impacts that are not reduced to less than significant levels, Section 9.0 includes a Statement of Overriding Considerations due to specific project benefits.

In accordance with CEQA and the CEQA Guidelines, the AOC adopts these findings as part of its certification of the Final EIR for the proposed project. To comply with Public Resources Code Section 21082.1, subdivision (c)(3), the AOC also finds that the Final EIR reflects the AOC's independent judgment as the lead agency for the project.

All of these findings are based on the entire administrative record for the project, including the Final EIR, and are fully supported by substantial evidence in the record as a whole.

## **1.2 ORGANIZATION OF FINDINGS**

These Findings include the following sections:

- Section 1.0 contains a summary description of the project and background facts relative to the environmental review process;

- Section 2.0 identifies the project's potential environmental effects that the AOC has determined are less than significant;
- Section 3.0 identifies the project's potentially significant effects and the AOC's identified mitigation measures that will mitigate the impacts to a level that is less than significant;
- Section 4.0 identifies the significant impacts of the project that cannot be mitigated to a less than significant level (even though the AOC identified and incorporated all feasible mitigation measures into the project);
- Section 5.0 summarizes the project's cumulative effects that the AOC found to be less than significant;
- Section 6.0 discusses the feasibility of the project alternatives;
- Section 7.0 summarizes the absence of significant new information requiring re-circulation of the EIR;
- Section 8.0 addresses the CEQA-mandated Mitigation Monitoring and Reporting Program prepared for the project;
- Section 9.0 identifies the custodian of the record of proceedings for the project; and
- Section 10.0 presents the Statement of Overriding Considerations.

## **1.3 SUMMARY OF PROJECT DESCRIPTION**

### **Project Background**

The County of San Diego (the "County") initiated the 2000 County Project, prepared a NOP in 2000 (SCH #2000021015), and circulated a Draft EIR for public review and comments. The purpose of the 2000 County Project was to enable site acquisition for future use of the property as a new location for a replacement courthouse facility. The

County did not propose actual construction of a new courthouse, but recognized that construction would be required at some point in the future to provide new courthouse space in the downtown San Diego.

Before and after the County initiated the 2000 County Project, the State began making major financial and structural changes to the Superior Court system. In 1997, the Lockyer-Isenberg Trial Court Funding Act (Stats. 1997, ch. 850; Assembly Bill 233) made funding of court operations a State responsibility and provided the courts with their first statewide funding system. In 2001, the State's Task Force on Court Facilities recommended that the State assume full maintenance and operational responsibility for all trial court facilities in the State, and the subsequent Trial Court Facilities Act of 2002 (Stats. 2002, ch. 1082, Senate Bill 1732) codified the State's responsibility for court facilities and placed the responsibility with the Judicial Council of California and its staff agency, the AOC. In 2008, the California Legislature enacted provisions (and in 2009 amended) authorizing up to \$5 billion in bond funding for new and renovated court facilities using court user fees rather than the State's general fund (Stats. 2008, ch. 311, Senate Bill 1407, and Stats. 2009, ch. 10, Senate Bill X2-12; hereafter referred to as "SB 1407"). A New San Diego Central Courthouse is identified as one of 41 trial court construction projects initially authorized to proceed under SB 1407. This preliminary authorization and funding enabled the AOC to proceed with feasibility studies and preliminary plans required as a prerequisite for the construction of a new courthouse similar to the replacement courthouse that the County envisioned and initiated in 2000 with its 2000 County Project.

## Project Description

The AOC proposes construction of the New San Diego Central Courthouse Project (the "Project") in downtown San Diego and operation of the facility for the Superior Court of California, County of San Diego (the "Superior Court"). The Project will enhance security and the efficiency of judicial operations, improve public access, and remove existing judicial facilities that lack adequate seismic safety, security, and public access.

The proposed project site for the New San Diego Central Courthouse is a one-block, approximately 1.4-acre parcel bounded by West B Street on the north, Union Street on the east, West C Street on the south, and State Street on the west. The Judicial Council of



California owns the proposed courthouse site. Interstate-5 (I-5) San Diego Freeway is approximately 0.5 mile north of the Project site and 1.0 mile east of the Project site.

The New San Diego Central Courthouse will have as many as approximately 20 stories with as many as three basement levels. The AOC expects that the building will be as much as approximately 400 feet in height with approximately 750,000 BGSF. The main public entrance to the new courthouse will be on C Street, Union Street, or the intersection of C Street/Union Street. The new courthouse will include 71 courtrooms with associated judicial chambers and operational areas. The building's upper basement level will include in-custody detainee handling facilities. There will also be building support space in the basement for mechanical equipment and building operational support needs. A lower basement level will provide approximately 115 secured parking spaces for judicial officers and judicial executives and may also provide additional building support areas. The AOC will operate the proposed new facility for the Superior Court.

To improve operational efficiency, the Project will include construction of a bridge over C Street to connect the new facility to the County of San Diego's Hall of Justice. The AOC presumes that the bridge will be constructed approximately 45 feet above the street and approximately 20 feet wide, 16 feet high, and 150 feet long.

The Project will also include construction of a tunnel between the new courthouse and the County of San Diego's existing Central Jail. The tunnel will provide a connection between the upper basement level's in-custody detainee handling facilities and the County's Central Jail.

Since the AOC is the Project's Lead Agency and is acting for the State of California on behalf of the Judicial Council of California, local governments' land use planning and zoning regulations do not apply to the proposed Project' however, the AOC intends to consult with local government representatives and provide a courthouse that is consistent with the quality of the local architectural environment.

The AOC will apply the codes and standards of the California Building Code<sup>1</sup> (edition in effect as of the commencement of schematic design phase of the Project); California Code of Regulations, Title 24; California Energy Code, Americans with Disabilities Act;

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<sup>1</sup> California Building Code. 2008. Building Standards Commission. Available at: <http://www.bsc.ca.gov/default.htm>.

American Disability Act Accessibility Guidelines;<sup>2</sup> and Division of the State Architect's Access Checklist.<sup>3</sup> The proposed Project will implement sustainable elements throughout its design, operation, and maintenance. The AOC's design will incorporate features that conform to standards of a Leadership in Energy and Environmental Design (LEED) silver-certified building, and the building's design will include features to reduce energy consumption by at least 15% from the levels of the California Building Code. The LEED Rating includes criteria for features related to sustainability, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality, and innovation and design processes.

The Project includes demolition sometime in the future of the existing County Courthouse, Old Jail, and bridges that extend from the County's Jail to the County Courthouse and from the Hall of Justice to the County Courthouse; however, the AOC does not currently have funding to demolish the structures. This building is located at 220 West Broadway and extends northward from Broadway to the block north of B Street with bridges over C and B Streets. The Judicial Council owns the County Courthouse and the Old Jail. The County Courthouse occupies approximately 2.25 City blocks, with an area of approximately three acres, and has 503,000 building gross square feet (BGSF). The Superior Court occupies approximately 383,000 BGSF<sup>4</sup> of space within the building, County offices occupy 88,000 BGSF of space, and the Sheriff's Department occupies approximately 32,000 BGSF. The facility has approximately 40 surface parking spaces, primarily for County staff. The County provides 67 secured spaces for Superior Court Staff on the block between B Street, Union Street, A Street, and Front Street. In addition, the new courthouse will accommodate selected staff and operations from the Hall of Justice, Madge Bradley Building, Family Court, and the Old Jail once construction is complete.

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<sup>2</sup> Available at: <http://www.access-board.gov/adaag/html/adaag.htm>

<sup>3</sup> Available at: [http://www.documents.dgs.ca.gov/dsa/pubs/checklists\\_rev\\_08-01-09.pdf](http://www.documents.dgs.ca.gov/dsa/pubs/checklists_rev_08-01-09.pdf)

<sup>4</sup> The Superior Court occupies approximately 243,000 usable square feet of space within the building, the County's Child Support Services and Health and Human Services occupy approximately 56,000 square feet of useable space in the building, and the Sheriff's Department occupies approximately 20,000 square feet of useable space; these uses total 319,000 useable square feet. BGSF includes common areas in a building, such as lobby space, restrooms, and building support space. The AOC calculated each uses' percentage of the total useable square feet and multiplied each uses' percentage by 503,000 BGSF to determine each uses' BGSF.

## **1.4 PROJECT PURPOSE AND OBJECTIVES**

The purpose of the proposed project is to provide the AOC with a new courthouse. The project's objectives are to provide:

- Provide the Superior Court with a new courthouse with improved facilities with sufficient size, as much as approximately 750,000 building gross square feet ("BGSF") for 71 courtrooms, to accommodate current and future needs of judicial operations in downtown San Diego and enhance security and the efficiency of judicial operations;
- Improve public access to judicial facilities;
- Provide consolidated space for the Superior Court's staff and operations;
- Preserve or improve the efficient interactions of the Superior Court, the District Attorney, and San Diego Sheriff by linking the County's Central Jail and the Hall of Justice with the new courthouse; and
- Remove judicial facilities that lack adequate seismic safety, security, and public access.

## **1.5 DISCRETIONARY PROJECT APPROVALS**

The AOC is the Lead Agency for the Project. The Administrative Director of the Courts is ultimately responsible for approving the Project.

Since the AOC will need to acquire real property rights and interests from the City of San Diego (the "City") and the County to construct and operate a pedestrian tunnel to connect the new courthouse to the Central Jail and to construct and operate the bridge between the new courthouse and the Hall of Justice, the City and the County will act as responsible agencies. No other agency must make a discretionary approval of the real estate, construction, or operational portions of the Project.

## **1.6 NOTICE OF PREPARATION**

In accordance with Section 15063 of the CEQA Guidelines, the AOC prepared a Notice of Preparation for the project. The Notice of Preparation described the project and potential issues to be studied in the Draft EIR. The AOC circulated the Notice of

Preparation to responsible and trustee agencies and interested parties in May 2010 to provide notification that the AOC was preparing an EIR for the project and to solicit guidance on the scope and content of this document. The AOC held a public scoping meeting on May 18, 2010, in downtown San Diego to discuss the project and CEQA process and to provide an opportunity for interested parties to make scoping comments. Appendix A of the EIR summarizes stakeholders' comments on the Notice of Preparation and public comments received.

The Notice of Preparation identified the key issues anticipated to be the focus of the EIR prepared for the project. These key issues were identified as the following:

- Aesthetics and Visual Resources;
- Air Quality/Climate Change;
- Historical, Archaeological, and Paleontological Resources;
- Geology and Soils;
- Hazards and Hazardous Materials;
- Land Use and Relevant Planning;
- Noise; and
- Traffic and Parking.

The Notice of Preparation anticipated that the proposed project would have no impact or a less-than-significant effect on the following resources:

- Agricultural Resources;
- Biological Resources;
- Hazards and Hazardous Materials;
- Mineral Resources;
- Public Services;
- Recreation;
- Population and Housing;
- Utilities and Service Systems; and
- Water Quality and Hydrology.

The AOC received oral and written responses to the Notice of Preparation from agencies, organizations, and individuals. Appendix A of the EIR summarizes stakeholders' comments on the Notice of Preparation and public comments received.

## 1.7 ENVIRONMENTAL IMPACT REPORT

The AOC prepared a Draft EIR in accordance with CEQA and the CEQA Guidelines to inform the Judicial Branch's designated decision-maker, the Administrative Director of the Courts, and the public of the potential significant environmental effects of the project. The Draft EIR evaluates possible ways to minimize significant effects and reasonable alternatives to the proposed project. The Draft EIR is a Project EIR since it evaluates a specific construction-level project (See Cal. Code Regulations, Title 14, Section 15161).

The AOC made the Draft EIR for public comment for a 45-day public review period from August 9, 2010 through September 22, 2010. After the close of the Draft EIR's public comment period, the AOC determined it was not necessary to add significant new information to the Draft EIR; however, portions of the Draft EIR were revised based on the comments received for clarification purposes. Since revisions to the Draft EIR were not significant and no additional significant impacts were identified during the public review period that were not previously identified in the Draft EIR, it was not necessary to recirculate a Revised Draft EIR for public review.

The following sections of the Draft EIR have been revised and are shown in the Final EIR. Any minor edits, such as to punctuation, numbering, or corrections to spelling, are not identified below; however, such changes are shown in strikeout/underline format in the Revised Draft EIR.

- Executive Summary Table 1-1;
- 3.0 Project Description;
- 4.6 Cultural and Historic Resources;
- 4.9 Land Use and Planning;
- 4.14 Recreation;
- 4.15 Transportation;
- 4.16 Utilities and Service Systems;

- 5.0 Alternatives; and
- 6.0 Other CEQA Considerations
- Appendix C, Historic Structure Assessment and Archaeological Review, and Appendix H, Traffic Impact Analysis Report.

The AOC made copies of the Draft EIR available for public review at the San Diego Central Library in downtown San Diego. The EIR was also available to the public on the AOC's website at: [http://www.courtinfo.ca.gov/programs/occm/projects\\_sandiego.htm](http://www.courtinfo.ca.gov/programs/occm/projects_sandiego.htm).

In December 2010, the AOC released the Final EIR to the public and public agencies. In accordance with CEQA Guidelines Section 15132, the Final EIR included the Draft EIR and associated revisions; comments received on the Draft EIR; a list of the persons, organizations, and public agencies commenting on the Draft EIR; the AOC's written responses to significant environmental issues raised during the public review and comment period; and the project's Mitigation Monitoring and Reporting Plan.

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## 2.0 FINDINGS FOR THE PROJECT'S IMPACTS THAT ARE LESS THAN SIGNIFICANT OR NO IMPACT

This section of the Findings summarizes the proposed project's potential effects that the AOC found to be less than significant. Section 4.0 of the Final EIR (Description of Environmental Setting, Project Impacts, and Mitigation Measures) includes the environmental analysis for the AOC's conclusions that the impacts are less than significant.

### 2.1 AESTHETICS AND VISUAL RESOURCES

#### 2.1.1 Degradation of the Existing Visual Character or Aesthetic Quality of the Site and its Surroundings Due to Construction Activities

**Finding:** The AOC's threshold is to avoid substantial degradation of the existing visual character or aesthetic quality of the site and its surroundings. As a surface parking lot currently occupies the majority of the Project site, along with three small-scale structures supporting commercial services, the site does not offer aesthetic features of high visual quality. The future demolition of the existing County Courthouse and Old Jail will produce short-term temporary impacts, but will not degrade the existing visual character or aesthetic quality of the site. Construction impacts will be less than the threshold.

#### **Facts Supporting the Finding:**

1. The AOC will install temporary fencing around the project site; and
2. The project's construction scenes and features will be temporary.



### 2.1.2 Degradation of the Existing Visual Character or Aesthetic Quality of the Site and its Surroundings Due to Post Construction, Operation, and Maintenance Activities

**Finding:** The AOC's threshold is to avoid substantial degradation of the existing visual character or aesthetic quality of the site and its surroundings. Several non-construction impacts will be less than the threshold. Section 3.1.1 of the CEQA Findings makes findings regarding other non-construction impacts that the AOC found to be potentially significant, but proposed mitigation reduces such impacts to a level that is less than significant.

#### **Facts Supporting the Finding:**

1. The proposed site is in an urban setting, and surrounding buildings include a wide variety of styles and materials. The courthouse's design will be consistent with courthouse design standards. The AOC expects the courthouse's features to be generally consistent with development standards of the City of San Diego Development Code. The high-rise building will not be unusual for the downtown San Diego setting, and the visual character and aesthetic quality of the proposed courthouse will be consistent with the visual character and aesthetic quality of the downtown area;
2. The Project may construct a pedestrian bridge over C Street to connect the new courthouse with the existing Hall of Justice building. Existing bridges span B and C Streets between Front and Union Street and between the adjacent County Courthouse and structures to the east of the Project site. These bridges are constructed of materials similar in appearance and color to the adjoining buildings, and as they are elevated above the ground, are not readily visible to pedestrians at street level. The proposed pedestrian bridge's design will be visually compatible with surrounding uses and will not significantly degrade the existing visual character or aesthetic quality of the Project site or the Hall of Justice's parking lot area since they are paved surface parking areas with little aesthetic value. In addition, C Street presently has a highly-urbanized character with the roadway, paved sidewalks, and limited vegetation to enhance the visual character;

3. The Project will replace many of the uses at the existing County Courthouse and it will not create adverse effects on the existing character of the site or surrounding areas for operational effects such as traffic generation, parking, or vehicular and pedestrian access or safety. Operation of the new courthouse will be similar to the operations of the present courthouse; and
4. The Project will close the existing County Courthouse and Old Jail after completion of the new courthouse and prior to the future demolition of the buildings at an unknown date in the future when funding is available. Securing the buildings will require very minor visual changes, such as the addition of coverings or signs to the buildings' entrances and windows. The Project's closure of the buildings will not substantially degrade the existing visual character or aesthetic quality of the site.

### 2.1.3 Adverse Effect on a Scenic Vista

**Finding:** The AOC's threshold is to avoid a substantial adverse effect on a scenic vista. Project impacts on scenic vistas will be less than the threshold.

#### **Facts Supporting the Finding:**

1. Due to the existing grid layout and intervening development largely consisting of mid- to high-rise level structures in the highly urbanized downtown environment, limited scenic views exist in the downtown area.
2. Development of the Project site will add another tall building to the downtown skyline, and the Project's lack of proximity to the other scenic features means it will not significantly obstruct or adversely affect any of the key views identified in the Downtown Community Plan Final EIR. The Project will not obstruct any public scenic vistas, and changes to the existing views will not be substantial; and
3. Since the existing County Courthouse's C Street bridge already blocks views along the C Street corridor and the Project will remove the existing bridge in the future, the proposed new bridge will not add a new obstruction to unobstructed views along the C Street corridor and will be visually compatible with

surrounding buildings. Due to the limited size of the bridge compared to surrounding structures, the bridge will not represent a significant element within the existing visual setting.

#### **2.1.4 Substantially Damage Scenic Resources**

**Finding:** The AOC's threshold is to avoid substantial damage to scenic resources. Project impacts on scenic vistas will be less than the threshold.

**Facts Supporting the Finding:**

1. Limited views of scenic resources occur for occupants of the downtown area, due to the existing grid layout and intervening existing development largely consisting of mid- to high-rise level structures;
2. Scenic resources identified in the Downtown Community Plan Final EIR resources are distant from the Project site and implementation of the Project will not affect the resources; and
3. The Project site and adjacent properties do not support any identified scenic resources. The existing County Courthouse and Old Jail are not of scenic value, and future demolition of these structures will not substantially damage scenic resources.

#### **2.1.5 Creation of a New Source of Substantial Light or Glare That Will Adversely Affect Day or Nighttime Views**

**Finding:** The AOC's threshold is to avoid creation of a new substantial source of light or glare that will adversely affect day or nighttime public views. Light or glare impacts will be less than the threshold.

**Facts Supporting the Finding:**

1. Construction personnel will limit nighttime construction lighting to the minimum necessary to provide adequate lighting for worker safety and to accurately

perform the required excavation and shield and direct lights to minimize potential illumination on surrounding land uses. In addition, since surrounding land uses currently generate nighttime light effects, construction lighting for the Project will not represent a significant source of new nighttime lighting in the area.

1. The AOC intends to implement a lighting plan that complies with LEED requirements (Silver Rating or higher). These requirements relevant to lighting include shielding exterior lighting; and preventing spillover onto adjacent properties, among other design measures;
2. The project's design will shield all light sources to minimize light on surrounding properties;
3. Light sources are already present on the project site from the existing parking lot and neighboring buildings; and
4. The building's security lighting will not be substantially different from nearby buildings, and therefore, will not be a source of substantial light.

#### 2.1.6 Degradation of the Existing Visual Character or Aesthetic Quality of the Site and its Surroundings Due to Shading

**Finding:** The AOC threshold is causing extended periods of shading of public facilities. Shading impacts will be less than the threshold.

**Facts Supporting the Finding:** The new courthouse's shadows will primarily affect the properties east and west of the proposed new courthouse building. The proposed building will shade portions of State Street, B Street and Union and Front Streets to the north in morning, noon and early afternoon hours, but none of these areas include existing public parks or other public areas and the shading will not occur for an extended number of hours. The Downtown Community Plan identifies the block directly east of the proposed Courthouse site, which includes the Old Jail and part of the County Courthouse, as the future location of a public park. The proposed courthouse and existing structures in the surrounding area will create a shadow effect on the proposed location of the Civic Square during the mid-to-late afternoon hours; however, during the majority of daytime hours

when the park will typically be occupied by people working or visiting the surrounding area, the proposed project will not substantially shade the proposed park area.

## 2.2 AGRICULTURAL RESOURCES

### 2.2.1 Conversion of Prime Farmland Unique Farmland or Farmland of Statewide Importance to non-agricultural use.

**Finding:** The AOC's threshold is conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. No impacts will occur.

**Facts Supporting the Finding:** There is no farmland in the project site.

### 2.2.2 Conflict with existing zoning for agricultural use or a Williamson Act contract.

**Finding:** The AOC's threshold is conflicting with existing zoning for agricultural use, or a Williamson Act contract. No impacts will occur.

**Facts Supporting the Finding:** There is no farmland in the project site.

### 2.2.3 Other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use.

**Finding:** The AOC's threshold is will involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use. No impacts will occur.

**Facts Supporting the Finding:** There is no farmland in the project site or in the vicinity of the project.

## 2.3 AIR QUALITY

### 2.3.1 Conflict with Implementation or Obstruct Implementation of the Applicable Air Quality Plan

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid conflict with the applicable air quality plan or obstruct the applicable air quality plan. The project has no conflicts with the applicable air quality plan.

**Facts Supporting the Finding:**

1. The project is consistent with the adopted Downtown Community Plan and Planned Development Ordinance which govern future development in the area and are therefore consistent with the applicable Regional Transportation Programs and the *Regional Air Quality Strategy*; and

2. The AOC's contractors will comply with the requirements of the regulatory agencies, including the Air District's Rule 55 for controlling airborne dust and vehicles' potential track out/carry out, Rule 67 for architectural coatings, and Rule 67.7 for asphalt products.

### 2.3.2 Violate Any Air Quality Standard or Contribute Substantially to an Existing or Projected Air Quality Violation Due to Construction Operations

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid a violation of any air quality standard or substantial contribution to an existing or projected air quality violation.

**Facts Supporting the Finding:** As shown in Table 4.4-5 of the Final EIR, Criteria Air Pollutant Emissions from Construction, the proposed project's projected construction-related emissions do not exceed criteria air pollutant limits established by the Air Pollution Control District.

### 2.3.3 Violate Any Air Quality Standard or Contribute Substantially to an Existing or Projected Air Quality Violation Due to Post-Construction Operations and Maintenance

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid violation of any air quality standard or substantial contribution to an existing or projected air quality violation.

**Facts Supporting the Finding:** As shown in Table 4.4-6 of the Final EIR, Criteria Air Pollutant Emissions from Operations, the proposed project's projected emissions for post-construction operations and maintenance do not exceed criteria air pollutant limits established by the Air Pollution Control District.

### 2.3.4 Produce a Cumulatively Net Increase of Any Criteria Pollutant for Which the Project Region Is Non-Attainment Under an Applicable Federal or State Ambient Air Quality Standard

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid production of a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

**Facts Supporting the Finding:** The maximum modeled emissions from this project are below levels that will be a considerable cumulative increase in emissions in the Air Pollution Control District.

### 2.3.5 Sensitive Receptor Exposure to Substantial Pollutant Levels

**Finding:** The AOC's threshold is to avoid exposure of sensitive receptors to substantial pollutant concentrations. Construction impacts and post-construction, operations, and maintenance impacts will be less than the threshold.

**Facts Supporting the Finding:**

1. The AOC's construction operations will comply with construction measures outlined in the Air Pollution Control District's requirements;
2. The project's construction-related emissions do not exceed criteria air pollutant limit;
3. Operations and maintenance associated with this project are typical of other activities in the area; and
4. The air emissions from operations and maintenance are diffuse in nature and are below Air Pollution Control District levels.

## 2.3.6 Objectionable Odors

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid creation of objectionable odors affecting a substantial number of people.

**Facts Supporting the Finding:** The project will have less than significant amounts of odor-creating compounds during construction, operation, or maintenance activities.

## 2.3.7 Conflict with the Greenhouse Gas Reduction Plan

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid producing a conflict with the State goal of reducing greenhouse gas emissions in California to 1990 levels by 2020.

**Facts Supporting the Finding:** The AOC's design effort includes the objective of achieving a LEED Silver Rating certification, which complies with the Air Resources Board's December 2008 *Climate Change Scoping Plan* (Scoping Plan) for Assembly Bill 32 compliance and the California Building Standards Commission's green building standards. Since the AOC's design requirements mandate LEED Silver measures, the project is in downtown San Diego near public transit facilities, and the Project develops a previously developed site, the AOC concludes that the Project is consistent with the



Scoping Plan's goals for State Government actions. Furthermore, the new courthouse will be substantially more energy and water efficient than the existing courthouse it is replacing. The new courthouse will utilize less water and less energy through the use of newer and more efficient building materials and fixtures. As a result, the building will require less energy for operations, and therefore, less greenhouse gas emissions.

### 2.3.8 Direct or Indirect Generation of Greenhouse Gas Emissions that Would Significantly Impact the Environment

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid producing significant amounts of greenhouse gas emissions.

#### **Facts Supporting the Finding:**

1. The AOC's design effort includes the objective of achieving a LEED Silver Rating certification, which complies with the Air Resources Board's Scoping Plan for Assembly Bill 32.
2. The project's emissions are quantified in Table 4.4-9 of the Final EIR, Estimated Greenhouse Gas Emission, and will be consistent with the South Coast Air District's proposed interim greenhouse gas emission threshold.

## 2.4 BIOLOGICAL RESOURCES

- ### 2.4.1 Substantially adverse affect either directly, or through habitat modifications, on any species identified as a candidate sensitive, or special status species in local, or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service.

**Finding:** The AOC's threshold is substantial adverse effect either directly, or through habitat modifications, on any species identified as a candidate sensitive, or special status species in local, or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service. No impacts to biological resources will occur.

**Facts Supporting the Finding:** There are no sensitive species or habitat on the Project site.

- 2.4.2 Substantially adverse affect any riparian habitat, or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service

**Finding:** The AOC's threshold is substantial adverse effect either directly, or through habitat modifications, on any species identified as a candidate sensitive, or special status species in local, or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service. No impacts to biological resources will occur.

**Facts Supporting the Finding:**

1. The Project site is in a highly urbanized area in downtown San Diego. Surrounding land uses include high-density, larger-scale institutional, commercial, and limited residential uses. Since there is no riparian habitat or other sensitive natural community or habitat on the Project site, and
2. No regional plans, policies, or regulations established for the protection of sensitive habitats include the Project site.

- 2.4.3 Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through removal, filling, hydrological interruption, or other means

**Finding:** The AOC's threshold is creation of a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including but not limited to, marsh, vernal pool, coastal, etc) through removal, filling, hydrological interruption, or other means;. No impacts to biological resources will occur.

**Facts Supporting the Finding:**

1. The Project site is in a highly urbanized area in downtown San Diego. Surrounding land uses include high-density, larger-scale institutional, commercial, and limited residential uses. No wetlands as defined by Section 404 of the Clean Water Act or any other state or local definition are present on the Project site, and
2. No hydrological features or riparian habitat occur on the property or in the vicinity.

2.4.4 Result in potentially significant adverse effects to wildlife dispersal corridors

**Finding:** The AOC's threshold is creation of potentially significant adverse effects to wildlife dispersal corridors. No impacts to biological resources will occur.

**Facts Supporting the Finding:** The site does not have any biological habitat that might support wildlife dispersal corridors.

## 2.5 CULTURAL RESOURCES

2.5.1 Substantial Adverse Change in the Significance of a Historic Resource

**Finding:** The AOC's threshold is to avoid a substantial adverse change in the significance of any historic resources. The project's impacts will be less than the threshold.

**Facts Supporting the Finding:**

1. The three existing onsite structures do not represent a notable architectural style, have not been the site of notable historic activities or events, and do not have potential historical significance;
2. The County Courthouse and Old Jail are simple and utilitarian structures. They are not notable examples of architectural features or works, and the buildings do not represent a notable or representative work. No known significant historical events occurred in the complex. Therefore, the buildings do not represent a significant historic resource, and demolition of these structures will not cause a substantial adverse change in the significance of a historic resource as defined in CEQA Guidelines Section 15064.05; and
3. Appendix C to the Final EIR, Historic Structure Assessment and Archaeological Review.

#### 2.5.2 Disturbance of Any Human Remains Including Those Interred Outside of Formal Cemeteries

**Finding:** The AOC's threshold is to avoid disturbance of any known location of any human remains, including those interred outside of formal cemeteries. The project's impacts will be less than the threshold.

**Facts Supporting the Finding:**

1. No recorded prehistoric archaeological sites were identified on or in the vicinity of the project site, and no evidence exists to indicate that burials occurred within the project area;
2. In the event that any human remains are encountered during site disturbance, Section 7050.5 of the California Health and Safety Code requires cessation of all ground-disturbing work in the vicinity of the remains until the coroner of San Diego County has investigated the remains and made a determination in accordance with Chapter 10 (commencing with Section 27460) of Part 3, Division

- 2, Title 3 of the California Government Code. If the coroner concludes that the human remains are of Native American origin, the Native American Heritage Commission must be contacted within 24 hours, and the project sponsor will comply with state laws relating to the disposition of Native American burials, regulated by the Native American Heritage Commission (Public Resource Code Section 5097); and
3. Appendix C to the Final EIR, Historic Structure Assessment and Archaeological Review.

## 2.6 GEOLOGY, SOILS, AND SEISMICITY

### 2.6.1 Expose People or Structures to Potential Substantial Adverse Effects Involving Rupture of a Known Earthquake Fault

**Finding:** The AOC's threshold is to avoid exposure of people or structures to potential substantial adverse effects involving rupture of a known earthquake fault. The project's impacts will be less than the threshold.

#### **Facts Supporting the Finding:**

1. The proposed courthouse site is not in an Alquist-Priolo Earthquake Fault Zone, and the site does not exhibit geologic features that the AOC anticipates will result in fault rupture.
2. The design and construction of the proposed new courthouse and tunnel will be in accordance with the applicable California Building Code and other standards to minimize the potential for fault rupture-related damage. The AOC will perform additional fault rupture investigations to provide estimates of potential fault displacement at tunnel-fault crossing locations.
3. The AOC will incorporate structural engineering measures into the design and construction of the tunnel to provide life-safety measures and features that will minimize the potential for damage due to fault rupture. The design and

construction of the tunnel will be in accordance with the applicable California Building Code and other standards.

4. The San Diego Fault runs through the northern and central portions of the existing County Courthouse/Old Jail site. Closure and demolition of the County Courthouse and Old Jail will eliminate fault-related risks for these existing facilities.

#### 2.6.2 Expose People or Structures to Potential Adverse Effects Involving Strong Seismic Ground Shaking

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid exposure of people or structures to potential substantial adverse effects involving strong seismic ground shaking.

##### **Facts Supporting the Finding:**

1. A number of active faults are near and within the downtown area. Therefore, the site has a moderate to strong potential for strong seismic shaking;
2. The AOC will complete a geotechnical investigation during the design process, and the building's designers will incorporate the investigation's results into design requirements that comply with the California Building Code; and
3. Demolition of the County Courthouse and Old Jail will eliminate ground shaking-related risks for these existing facilities.

#### 2.6.3 Expose People or Structures to Adverse Effects Involving Ground Failure (Including Subsidence or Liquefaction-Induced Lateral Spreading)

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid exposure of people or structures to substantial adverse effects involving ground failure (including subsidence or liquefaction-induced lateral spreading).

**Facts Supporting the Finding:**

1. Liquefaction may have the potential to occur with a major earthquake event (6.0 or greater); however, major regional faults are located at a distance from the project site and the project's geological studies conclude that there is a low to moderate potential for liquefaction caused by strong seismic ground shaking;
2. The construction contractor will use temporary shoring to support excavation for the proposed Courthouse and tunnel and will monitor deformation of the shoring and the ground surrounding the excavations for possible subsidence to mitigate the risk of distress to existing infrastructure from potential ground movement;
3. The AOC will complete a geotechnical investigation during the design process, and the building's designers will incorporate the investigation's results into design requirements that comply with the California Building Code; and
4. Demolition of the County Courthouse and Old Jail will not add soil fill that may enhance ground failure-related risks at these existing facilities.

#### 2.6.4 Expose People or Structures to Potential Adverse Effects Involving Expansive Soil

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid exposure of people or structures to potential substantial adverse effects involving expansive soil.

**Facts Supporting the Finding:**

1. Preliminary studies have not identified specific expansive soil areas at the site;
2. The AOC will complete a geotechnical investigation during the design process, and the building's designers will incorporate the investigation's results into design requirements that comply with the California Building Code; and

3. Demolition of the County Courthouse and Old Jail will not add soil fill that may produce expansive soil-related risks.

#### 2.6.5 Landslides

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid exposure of people or structures to potential substantial adverse effects involving landslides.

**Facts Supporting the Finding:** The project site is relatively flat and no significant slopes are located on surrounding properties as adjacent areas are urban in nature and largely support mid-to high-rise structures or surface parking. As such, the potential for the occurrence of landslides is very low.

#### 2.6.6 Soil Erosion / Loss of Topsoil

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid potential adverse effects involving soil erosion or the loss of topsoil.

**Facts Supporting the Finding:** The AOC will comply with State and local regulations relative to control of storm water runoff and soil erosion. As adjacent streets are paved and adjacent parcels have only minor areas without structures, the Project will not substantially change drainage patterns or create steep slopes subject to increased runoff.

#### 2.6.7 Potentially significant adverse effect to unique geologic features

**Finding:** The AOC's threshold is destruction of a unique geological feature. Since no unique features are present, the Project will have no impacts.

**Facts Supporting the Finding:**

1. The Project site is flat and presently has a surface parking lot and three small-scale structures.



2. Geological investigations did not indicate that the Project site has known unique geologic features.

## 2.7 HAZARDS AND HAZARDOUS MATERIALS

### 2.7.1 Result in a Safety Hazard in the Vicinity of an Airport or Airstrip for People Visiting or Working in the Project Area

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid creation of a substantial safety hazard in the vicinity of an airport or airstrip for people visiting or working in the project area.

**Facts Supporting the Finding:**

1. The project's design will be consistent with Federal Aviation Administration and/or other applicable laws and regulations for ensuring continued public safety and the avoidance of interference with airport operations; and
2. The proposed courthouse will be lower in elevation than other existing buildings within the surrounding area.

### 2.7.2 Create a Significant Hazard to the Public or Environment through Routine Transport, Use, or Disposal of Hazardous Materials

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid a public or environmental safety hazard from the transport, use, or disposal of hazardous materials.

**Facts Supporting the Finding:**

1. Removal, treatment, and offsite disposal of any hazardous materials, such as lead paint or polychlorinated biphenyls, encountered during demolition of the existing structures on the project site, the County Courthouse, or Old Jail will occur

- consistent with applicable Federal, State, and local regulations pertaining to the handling of hazardous substances;
2. Operation of the new courthouse will not create a significant increase in the use, transport, or disposal of hazardous materials; and
  3. The new courthouse will be constructed to achieve a LEED Silver Rating, which will require the use of materials that are made with compounds with reduced hazardous materials content, thereby reducing the quantity of hazardous materials or processes relative to project construction and operation.

#### 2.7.3 Emit Hazardous Emissions or Handle Hazardous or Acutely Hazardous Materials, Substances, or Waste

**Finding:** The AOC threshold is to avoid the release of hazardous emissions or the handling of hazardous or acutely hazardous materials, substances, or waste. Project impacts will be less than the threshold.

**Facts Supporting the Finding:** The proposed use is a replacement courthouse. Due to typical daily operational requirements, the project will not emit hazardous emissions or require the handling of hazardous or acutely hazardous materials.

#### 2.7.4 Create a Significant Hazard to the Public or the Environment from Being Included on a List of Hazardous Materials Sites Compiled Pursuant to Government Code Section 65962.5

**Finding:** The AOC threshold is to avoid public or environmental hazards resulting from the project site being listed as a hazardous materials site per Government Code Section 65962.5. Project impacts will be less than the threshold.

**Facts Supporting the Finding:**

1. The project site is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. No documented hazardous release sites have been identified onsite, and County's

Department of Environmental Health has not identified the site as a hazardous release site warranting enforcement action; and

2. If construction personnel encounter abandoned, improperly destroyed wells, undocumented sources of groundwater, or soil contamination during excavation, grading, or construction activities on the project site, construction personnel will destroy the wells in accordance with applicable Federal, State, and/or local regulations.

#### 2.7.5 Impair Implementation of, or Physically Interfere with, an Adopted Emergency Response Plan or Emergency Evacuation Plan

**Finding:** The AOC threshold is to avoid impairment or physical interference with an adopted emergency response plan or emergency evacuation plan. Project impacts will be less than the threshold.

#### **Facts Supporting the Finding:**

1. The project will replace the existing County Courthouse, and will not require offsite improvements that will substantially interfere with traffic flow patterns;
2. The AOC's construction contractor will prepare a Traffic Control Plan prior to construction to minimize project effects on traffic patterns and emergency access; and
3. No long-term operational effects will hinder emergency response.

#### 2.7.6 Expose People or Structures to a Significant Risk of Loss, Injury, or Death Involving Wildland Fires, Including Where Wildlands are Adjacent to Urbanized Areas or Where Residences are Intermixed with Wildlands

**Finding:** The AOC threshold is to avoid exposure of people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are

adjacent to urbanized areas or where residences are intermixed with wildlands. Project impacts will be less than the threshold.

**Facts Supporting the Finding:** The project site lies within an urban setting and the surrounding area is built-out, making the threat for hazards to occur as the result of wildland fires very low. No wildlands are adjacent to the site, and no residential uses are proposed.

## 2.8 LAND USE

### 2.8.1 Conflict with Any Applicable Land Use Plan, Policy, or Regulation of an Agency with Jurisdiction Over the Project Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect

**Finding:** The AOC's threshold is to avoid conflict with any applicable land-use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. Project impacts will be less than the threshold.

**Facts Supporting the Finding:**

1. Local agencies' planning and zoning laws and regulations do not apply to the AOC;
2. The proposed use of the site is consistent with the adopted Downtown Community Plan and Planned Development Ordinance that govern future development within the area. The new courthouse will replace the already existing courthouse on a presently developed site, and will not be inconsistent with surrounding land uses; and
3. The project is consistent with Federal Aviation Administration regulations, established applicable policies, and land use compatibility plans with regard to operation of the San Diego International Airport.

## 2.8.2 Physically Divide a Community

**Finding:** The AOC's threshold is to avoid development that will physically divide a community. Project impacts will be less than the threshold.

**Facts Supporting the Finding:** The project will convert the existing onsite land to the new courthouse and will not significantly divide or disrupt the arrangement of land uses in the area of the Project, displace any dwelling units or residents, or conflict with or disrupt the daily operations of existing commercial, residential, or governmental uses in the area. 2.9 Mineral Resources

### 2.9.1 Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State

**Finding:** The AOC's threshold is resulting in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State. The Project will have no impact on mineral resources.

**Facts Supporting the Finding:**

1. The Project is not located in a designated resource zone area, and no mining operations are active in the area, and
2. No local or State designations for mineral extraction have been identified for the Project site.

### 2.9.2 Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan

**Finding:** The AOC's threshold is resulting in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.

**Facts Supporting the Finding:**

1. The Project site is not currently being utilized for mineral extraction and does not contain any known mineral resources that will be of value to the region, and.
2. The Project area is not delineated on a local general plan, specific plan, or other land use plan as a locally important mineral resource recovery site.

## 2.10 NOISE

### 2.10.1 Cause a Substantial Permanent Increase in Ambient Noise Levels or Generate Noise Levels in Excess of Standards Established in the Local General Plan, Noise Ordinance, or Applicable Standards of Other Agencies

**Finding:** The AOC's threshold is to avoid a permanent increase in noise levels or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or by applicable standards of other agencies. Project impacts will be less than the threshold.

#### **Facts Supporting the Finding:**

1. Noise from project heating, ventilating, and air conditioning mechanical equipment will be similar to noise from equipment used in the surrounding office buildings and hotels in the project vicinity, and the new courthouse's Day/Night Average noise will not exceed 50 A-Weighted decibels at a distance of 100 feet;
2. The project will remove the County Courthouse, the Old Jail, and the Stahlman Block's existing buildings and their equipment and the resulting operational noise; and
3. As shown in Table 4.11-10 of the Final EIR, Existing Plus Cumulative Plus Project Noise Scenarios, the project's traffic will not generate substantial traffic-related noise.

### 2.10.2 Generate Excessive Ground-Borne Vibration or Ground-Borne Noise Levels

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid the generation of excessive ground-borne vibration or ground-borne noise levels.

**Facts Supporting the Finding:** The closest occupied structures with a daytime use are approximately (a minimum) of 75 feet from potential heavy construction activity. Each projected vibration value at 75 feet for the project is below the 0.2 inch-per-second peak particle velocity significance threshold.

### 2.10.3 Expose People Residing or Working in the Project Area to Excessive Noise Levels from a Public Airport, Public Use Airport, or Private Airstrip

**Finding:** The AOC's threshold is to avoid exposure of the public to excessive noise levels from a public airport, public use airport, or private airstrip. Project impacts will be less than the threshold.

**Facts Supporting the Finding:**

1. The Project is not located in the vicinity of a private airstrip; and
2. The San Diego International Airport is approximately one mile northwest of the project site. Operation of the new courthouse will not significantly differ from the existing courthouse, and the project will not increase exposure to the existing noise associated with the San Diego International Airport.

## 2.11 POPULATION AND HOUSING

### 2.11.1 Potentially Induce Substantial Growth

**Finding:** The AOC's threshold is to induce growth. No impacts will occur.

**Facts Supporting the Finding:**

1. The Project will not induce the construction of additional housing, and
2. The Project site is in a highly urbanized area, and development of the site with courthouse-related uses is generally consistent with the adopted plans and policies applicable to the Project site.

#### 2.11.2 Result in Impacts Associated With the Provision of New or Physically Altered Governmental Facilities in Order to Maintain Acceptable Service Ratios, Response Times, or Other Performance Objectives for Fire Protection Services

**Finding:** The AOC's threshold is to displace a significant amount of housing. The project will have no impacts.

**Facts Supporting the Finding:** There is no residential housing located on the Project site.

## 2.12 PUBLIC SERVICES

#### 2.12.1 Result in Impacts Associated With the Provision of New or Physically Altered Governmental Facilities in Order to Maintain Acceptable Service Ratios, Response Times, or Other Performance Objectives for Fire Protection Services

**Finding:** The AOC's threshold is to avoid creation of substantial impacts associated with the provision of new or physically altered governmental facilities in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services. The project's impacts will be lower than the threshold.

**Facts Supporting the Finding:**

1. The City currently provides fire protection services to the existing onsite uses and the existing courthouse, and the project will not create unacceptable service ratios;



2. Construction of the new Central Courthouse and demolition of the County Courthouse, Old Jail, and buildings on the Stahlman Block will not represent a significant increase in intensity of use over other high-rise buildings in the vicinity of the project; and
3. Two fire stations are within close proximity to the project site, and required response times can be met.

#### 2.12.2 Result in Impacts Associated With the Provision of New or Physically Altered Governmental Facilities in Order to Maintain Acceptable Service Ratios, Response Times, or Other Performance Objectives for Police Protection Services

**Finding:** The AOC's threshold is to avoid creation of substantial impacts associated with the provision of new or physically altered governmental facilities in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services. The project's impacts will be lower than the threshold.

#### **Facts Supporting the Finding:**

1. The project will consolidate court operations into fewer and more secure facilities and will therefore require fewer San Diego Police Department personnel; and
2. The new courthouse will have improved security features that enhance the efficiency of court security operations.

#### 2.12.3 Result in Impacts Associated With the Provision of New or Physically Altered Governmental Facilities in Order to Maintain Acceptable Service Ratios, Response Times, or Other Performance Objectives for Schools, Parks, or Other Public Services

**Finding:** The AOC's threshold is to avoid creation of substantial impacts associated with the provision of new or physically altered governmental facilities in order to maintain acceptable service ratios, response times, or other performance objectives for schools, parks, or other public services. The project's impacts will be lower than the threshold.

**Facts Supporting the Finding:** The project will not generate new residential housing or other land uses that will result in an increase in population or housing demands, and therefore, will not increase demands on local schools for educational services for school-aged children, public parks, libraries, or other public services over that currently generated by the existing courthouse and jail.

## **2.13 RECREATION**

### **2.13.1 Increase the Use Of Existing Neighborhood And Regional Parks Or Other Recreational Facilities So That Substantial Physical Deterioration Of The Facility Will Occur Or Be Accelerated**

**Finding:** The AOC's threshold is to avoid an increase the use of existing neighborhood and regional parks or other recreational facilities that causes substantial physical deterioration of the facility will occur or accelerate. The project's impacts will be lower than the threshold.

**Facts Supporting the Finding:**

1. The Project will not increase the use of existing neighborhood or regional parks or other recreational facilities,
2. The Project does not propose housing that will have the potential to indirectly increase public demand for area recreational facilities, and
3. Since the Project does not represent a significant increase in intensity of use over that of the existing courthouse facilities, it does not create an increase in demand for public recreational facilities.

### 2.13.2 Include Recreational Facilities Or Require The Construction Or Expansion Of Recreational Facilities, Which Might Have An Adverse Physical Effect On The Environment

**Finding:** The AOC's threshold is including recreational facilities or requiring the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.

**Facts Supporting the Finding:**

1. The Project will not increase the use of existing neighborhood or regional parks or other recreational facilities,
2. The Project does not propose housing that will have the potential to indirectly increase public demand for area recreational facilities, and
3. Since the Project does not represent a significant increase in intensity of use over that of the existing courthouse facilities, it does not create an increase in demand for public recreational facilities.

## 2.14 TRAFFIC AND CIRCULATION

### 2.14.1 Cause an Increase in Traffic that is Substantial in Relation to the Existing Traffic Load and Capacity of the Street System

**Finding:** The AOC's threshold is to avoid creation of an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system. The project's impacts will be lower than the threshold.

**Facts Supporting the Finding:**

1. As shown in the Final EIR's Table 4.15-12, the anticipated intersection levels of service do not exceed the AOC's threshold.

2. As shown in the Final EIR's Table 4.15-13, , the project's impacts will be lower than the AOC's threshold.

#### 2.14.2 Exceed a Level of Service Standard Established by the County Congestion Management Agency for Designated Roads or Highways

**Finding:** The AOC's threshold is to avoid violation of a level of service standard established by the County congestion management agency for designated roads or highways. The project's impacts will be lower than the threshold.

**Facts Supporting the Finding:** The proposed project will not create unacceptable level of service conditions on designated roads or highways, as quantified in Table 4.15-13 in the Final EIR, Existing Plus Project Roadway ADT Volumes and LOS.

#### 2.14.3 Air Traffic Patterns

**Finding:** The AOC's threshold is to avoid production of a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. The project will have no impacts.

#### **Facts Supporting the Finding:**

1. The Project will not generate air traffic, and
2. The Project will not change existing air traffic patterns.

#### 2.14.4 Increase Hazards Because of a Design Feature, Such as Sharp Curves or Dangerous Intersections, or Incompatible Uses

**Finding:** The AOC's threshold is to avoid an increase in hazards due to a design feature or incompatible uses. The project's impacts will be lower than the threshold.

**Facts Supporting the Finding:**

1. The new courthouse design will conform to the California Building Code and will be generally consistent with City's design standards.
2. The project design does not include new or alterations to existing intersections that will increase vehicular or pedestrian hazards in the area.

2.14.5 Inadequate Emergency Access

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid creation of inadequate emergency access.

**Facts Supporting the Finding:**

1. Tunnel construction will require lane closures between B Street and C Street on Front Street. Since the City's Central Fire Station has driveways on B Street between Front Street and 1st Avenue, the AOC and its construction contractor will consult with the City and the Fire Department to plan and implement potential lane closures for the tunneling operations;
2. Development of the project site will generally conform to recommendations of the Superior Court, the San Diego County Sheriff's Department, and the San Diego Fire Department to ensure adequate emergency access considerations; and
3. The project does not include closure of any public through street that is currently used for emergency service, and will not interfere with the adopted emergency response plan.

2.14.6 Inadequate Parking Supply

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid creation of inadequate parking capacity.

**Facts Supporting the Finding:**

1. The removal of the Stahlman Block's buildings and the Old Jail will reduce parking demand in the study area;
2. The project will provide approximately 115 secured underground parking spaces for judges and court staff, thereby eliminating part of the parking demand associated with the Superior Court's consolidation of its Madge Bradley and Family Law operations, the Kearney Mesa courtroom, and the new courtroom; and
3. Parking facilities near the existing and proposed courthouse currently have unused capacity (45% of surveyed parking spaces were unoccupied at 8:30 a.m.), which is sufficient capacity to serve the project.

#### 2.14.7 Conflict with Adopted Policies, Plans, or Programs Supporting Alternative Transportation

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid creation of a conflict with adopted policies, plans, or programs supporting alternative transportation.

**Facts Supporting the Finding:**

1. The project proposes to eliminate the Regional Transit System's on-street bus waiting spaces; however, this will not impact the riders or operation of the transit system;
2. The site is approximately one-quarter mile from San Diego Union Station which is the City of San Diego downtown transit center with access to alternative transit systems such as Amtrak, the San Diego Coaster, the San Diego Trolley, and the San Diego Metropolitan Transit System bus system; and
3. The project will not interfere with existing travel patterns of employees and jurors utilizing alternative transit to and from the courthouse.

## 2.15 UTILITIES AND SERVICE SYSTEMS

### 2.15.1 Exceed Wastewater Treatment Requirements of the Applicable Regional Water Quality Control Board

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid violation of wastewater treatment requirements of the applicable Regional Water Quality Control Board.

**Facts Supporting the Finding:**

1. Design of the new courthouse will be consistent with applicable requirements of the Regional Water Quality Control Board for wastewater disposal and treatment;
2. The AOC intends to design the new courthouse to achieve a Silver rating certification under the U.S. Green Building Council's LEED Green Building Rating System, and will integrate innovative wastewater technologies to reduce the amount of wastewater potentially generated by daily operational procedures; and
3. The new courthouse will not represent a significant increase in intensity of use or significantly increase wastewater generated as compared to the existing courthouse use.

### 2.15.2 Require or Result in the Construction of New Water or Wastewater Treatment Facilities or Expansion of Existing Facilities

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid creation of a condition that requires the construction of new water or wastewater treatment facilities or expansion of existing facilities.

**Facts Supporting the Finding:**

1. The project will replace the existing courthouse and will not result in a significant increase in the existing number of overall staff. The project will demolish the existing Stahlman Block buildings, eliminating the associated water and wastewater treatment demand and will integrate design measures consistent with LEED Silver certification requirements (e.g., low-flow faucets, low-flush toilets) that will reduce overall water demand generated by daily operation of the facilities and resulting wastewater treatment demand, as compared to the existing courthouse; and
2. The project's wastewater generation will not exceed wastewater treatment requirements based on the current wastewater facility's capacity of 285 million gallons per day;

### 2.15.3 Require or Result in the Construction of New Storm Water Drainage Facilities or Expansion of Existing Facilities

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid creation of a condition that requires the construction of new storm water drainage facilities or expansion of existing facilities.

**Facts Supporting the Finding:**

1. The AOC's proposed courthouse design will conform to the requirements of the California Trial Court Facilities Standards<sup>5</sup> and City design standards, as applicable, with regard to controlling storm water runoff, and will not create an abundance of storm water runoff that will require a change control to the existing storm drain system;
2. The project will not require construction of new offsite storm water facilities;

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<sup>5</sup> Judicial Council of California. 2006. California Trial Court Facilities Standards. 226 p. Available at: [http://www.courtinfo.ca.gov/programs/occm/documents/06\\_April\\_Facilities\\_Standards-Final-Online.pdf](http://www.courtinfo.ca.gov/programs/occm/documents/06_April_Facilities_Standards-Final-Online.pdf).



3. The Project's construction operators will implement Best Management Practices (BMPs) and other design measures throughout the construction phase to avoid or minimize potential impacts; and
4. The AOC intends to design the project consistent with LEED Silver certification requirements and will implement a storm water management plan that includes measures to comply with LEED requirements relevant to storm water to address both quantity and quality control for potential storm water runoff from the project site.

#### 2.15.4 Have Sufficient Water Supplies Available to Serve the Project from Existing Entitlements and Resources

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid creation of a condition that causes the water supply provider to conclude that it has insufficient capacity to serve the project.

**Facts Supporting the Finding:**

1. The San Diego County Water Authority's 2005 Water Plan anticipates reliability of its water supply through 2030 to correspond with the San Diego Association of Governments' growth forecasts;
2. The project will replace the existing courthouse and Old Jail with new facilities and will not introduce a new use in the downtown area that will significantly increase water use demand over that currently generated by the existing courthouse;
3. The AOC intends to implement a water supply plan that complies with LEED Silver certification requirements; and
4. Sufficient water supplies are available to serve the project from existing entitlements and resources.

2.15.5 Result in a Determination by the Wastewater Treatment Provider That Serves or May Serve the Project it has Adequate Capacity to Serve the Project's Projected Demand in Addition to the Provider's Existing Commitments

**Finding:** The AOC's threshold is to avoid creation of a condition that causes the wastewater treatment provider that serves or may serve the project to determine that it lacks adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. Project impacts will be less than the threshold.

**Facts Supporting the Finding:**

1. The project's increase in wastewater treatment demand will be minor as compared to current demands generated by the existing courthouse facilities and other buildings, as the overall number of employees occupying the new facilities will not significantly increase with consideration for relocation of existing staff and operations; and
2. The Point Loma Treatment Plant and two reclamation plants combined are capable of treating approximately 285 million gallons per day, which is considered sufficient to meet the projected needs of the service area through at least 2020.<sup>6</sup>

2.15.6 Be Served by a Landfill with Sufficient Permitted Capacity to Accommodate the Project's Solid Waste Disposal Needs

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid service by a landfill with insufficient permitted capacity to accommodate the project's solid waste disposal needs.

**Facts Supporting the Finding:**

1. Solid waste generated by daily operation of the new courthouse will contribute to incremental consumption of the City's existing landfill capacity; however, the

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<sup>6</sup> City of San Diego Draft General Plan Final Program EIR, September 2007.

additional contribution will not be substantial compared with the remaining capacity of the Miramar Landfill, Otay Landfill, or Sycamore Landfill;

2. Daily operational activities will be similar to those which occur at the existing courthouse, and therefore, solid waste quantities generated are not anticipated to significantly increase with the project; and
3. The project will comply with the City's Construction and Demolition Debris Deposit Ordinance which requires that a minimum of 50% of construction and demolition materials is recycled and diverted from landfill disposal.

## 2.16 WATER QUALITY AND HYDROLOGY

### 2.16.1 Violate any Water Quality Standards or Waste Discharge Requirements

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid violation of any water quality standards or waste discharge requirements.

#### **Facts Supporting the Finding:**

1. The AOC's project and construction contractor will prepare a Storm Water Pollution Prevention Plan, National Pollutant Discharge Elimination System permit application, and water quality treatment plans for the activities, secure approval of the plans, and implement the plans; and
2. The AOC intends to include project features that will secure a LEED Silver certification and will therefore implement related design measures, such as bioswales, to control runoff.

2.16.2 Create or Contribute Runoff Water that will Exceed the Capacity of Existing or Planned Storm Water Drainage Systems or Provide Additional Sources of Polluted Runoff

**Finding:** The project's impacts will be less than the AOC's threshold, which is to avoid creation or contribution of runoff water that will exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

**Facts Supporting the Finding:**

1. The project site is relatively flat and is adjacent to, and served by, the City's storm drain system;
2. The proposed building will not substantially change the amount of onsite impervious area or increase surface water runoff volumes
3. The construction contractor must secure approval of a Storm Water Pollution Prevention Plan and implement the plan; and
4. The AOC intends to include project features that will secure a LEED Silver certification. Such features will include storm water control measures to regulate the flow of surface water during storm events.

### 3.0 FINDINGS FOR THE PROJECT'S IMPACTS THAT ARE POTENTIALLY SIGNIFICANT, BUT ADOPTION OF MITIGATION MEASURES WILL REDUCE PROJECT IMPACTS TO LEVELS THAT ARE LESS THAN SIGNIFICANT

This section of the Findings summarizes the project's potential effects that the AOC found to be potentially significant, but that can be reduced to a level that is less than significant with implementation of mitigation measures. Section 4.0 of the Final EIR (Description of Environmental Setting, Project Impacts, and Mitigation Measures) includes the environmental analysis and a description of mitigation measures for the AOC's conclusions that impacts can be reduced to less than significant.

#### 3.1 VISUAL CHARACTER AND AESTHETIC QUALITY

##### 3.1.1 Degradation of the Existing Visual Character or Aesthetic Quality of the Site and its Surroundings Due to Non-Construction Activities

**Significant Effects:** The AOC concludes that proposed project will have the following potentially significant impacts:

- Due to structure height (approximately 20 stories or 400 feet tall), the courthouse may generate high-velocity ground-borne winds. The building's interactions with winds may generate high-velocity ground-borne winds may adversely affect pedestrians or others occupying the sidewalks and public spaces below, thereby significantly degrading the aesthetic quality of the existing pedestrian environment around the project site.

**Finding:** The AOC concludes that mitigation measures will reduce Section 4.2.4.3's potentially significant impacts to a level that is less than significant.

**Facts in Support of Finding:** The AOC's proposed project includes implementation of the following mitigation measures:

- Mitigation Measure AES-1b: To prevent the new courthouse from generating high-velocity groundborne winds, the AOC shall include building features that will intercept winds moving down the building's face toward the ground and prevent substantial wind impacts on pedestrians.

### 3.2 CULTURAL AND HISTORIC RESOURCES

#### 3.2.1 Cause a Substantial Adverse Change in the Significance of an Archaeological Resource

**Significant Effects:** The AOC concludes that proposed project will have the following potentially significant impact: There remains potential for the project site to contain previously undiscovered archaeological resources. Project excavation and grading may damage or destroy unknown buried archaeological resources that may be present. Disturbance of buried cultural resources will be a potentially significant impact for the proposed site location.

**Finding:** The AOC concludes that mitigation measures will reduce Section 4.6.4.2's potentially significant impacts to a level that is less than significant.

**Facts in Support of Finding:** The AOC's proposed project includes implementation of the following mitigation measure:

- Mitigation Measure CR-1: The AOC will require its developer to retain a qualified archaeologist who shall inform all excavation operations personnel of the Project's cultural resource mitigation measures prior to any earth-disturbing activities and provide instruction to recognize archaeological artifacts, features, or deposits. Personnel working on the Project will not collect archaeological resources. The qualified archaeologist will be present for pre-construction meetings and any Project-related excavations of the uppermost 15 feet of soils on the site when the AOC begins its construction operations. If construction operations discover resources in the uppermost 15 feet of soil and the resources

extend below 15 feet, the archaeologist may evaluate the resources that are located below the uppermost 15 feet of soil. If construction personnel encounter soil conditions or other indicators which suggest that resources may be located below 15 feet, the AOC's qualified archaeologist will evaluate the unusual soil conditions and any resources.

Prior to construction, the qualified archaeologist shall submit a cultural resources management plan to the AOC that outlines the procedures that the AOC and construction personnel will follow if personnel discover cultural resources during excavation operations and the documentation that the qualified archaeologist shall prepare for the monitoring effort. If the archaeologist requires assistance from a Native American monitor to evaluate potential Native American-related cultural resources, the AOC will support such assistance.

If construction operation personnel discover buried cultural resources such as chipped or ground stone or building foundations during ground-disturbing activities, excavation workers shall stop operations in that area and within 100 feet of the find until the consulting archaeologist can assess the significance of the find. The archaeologist will evaluate the discovery, determine its significance, and provide proper management recommendations. Management actions may include scientific analysis and professional museum curation. Within three months of the completion of cultural resources monitoring activities, the qualified archaeologist shall summarize the resources in a report prepared to current professional standards.

- Appendix C to the Final EIR, Historic Structure Assessment and Archaeological Review

### 3.3 GEOLOGY, SOILS, AND SEISMICITY

#### 3.3.1 Destroy a Unique Paleontological Resource or Site

**Significant Effects:** The geologic formation underlying the project site has a high sensitivity rating for paleontological resources and has produced a diverse amount of well-preserved marine invertebrate and vertebrate fossils to date. As fossils are known to

occur in the project vicinity, the potential for discovering unknown fossils during construction is a concern. Excavation and grading activities may damage or destroy unknown paleontological resources that may be present. Any disturbance of buried paleontological resources would be considered a potentially significant impact.

**Finding:** The AOC concludes that mitigation measures will reduce Section 4.7.4.5's potentially significant impacts to a level that is less than significant.

**Facts in Support of Finding:** The AOC's proposed project includes implementation of the following mitigation measure:

- Mitigation Measure GEO-1: The AOC will require its developer to retain a qualified paleontologist who shall inform all construction excavation operations personnel of the Project's paleontological resource mitigation measures prior to any earth-disturbing activities and provide instruction to recognize paleontological artifacts, features, or deposits. Personnel working on the Project will not collect paleontological resources. The qualified paleontologist will be present for pre-construction meetings and any Project-related excavations in undisturbed marine sediments of the upper Pleistocene Bay Point Formation and/or middle Pleistocene "upper Broadway" and "lower Broadway" formations, as well as where over-excavation of any thin veneer of younger alluvial sediments with Pleistocene marine sediments in the subsurface. Monitoring may be reduced if the potentially fossiliferous units are not present in the subsurface, or if present, are determined upon exposure and examination by qualified paleontological personnel to have low potential to contain or yield fossil resources.

Prior to construction, the qualified paleontologist shall submit a paleontological resources management plan to the AOC that outlines the procedures that the AOC and construction personnel will follow if personnel discover paleontological resources during excavation operations. Monitoring of excavation and trenching activities shall occur in areas that the qualified paleontologist or paleontological monitor determines are likely to yield paleontological resources.

If construction operations personnel discover buried paleontological resources during ground-disturbing activities, excavation workers shall stop operations in that area and within 100 feet of the find until the consulting paleontologist can assess the significance of the find. The paleontologist will evaluate the discovery,



determine its significance, and provide proper management recommendations. Management actions may include scientific analysis and professional museum curation.

The qualified paleontologist shall summarize the resources in a report prepared to current professional standards.

- Appendix C to the Final EIR, Historic Structure Assessment and Archaeological Review

### 3.4 HAZARDS AND HAZARDOUS MATERIALS

#### 3.4.1 Exposure of the Public or Environment Through Forseeable Upset and Accident Conditions Involving the Release of Hazardous Materials

**Significant Effects:** The AOC concludes that the Phase I and Limited Phase II Site Assessments noted a magnetic anomaly detected by an underground utility locator approximately 20 feet west of onsite Monitoring Well 1 (conducted prior to the drilling for Monitoring Well 1). The assessment indicates that this anomaly may represent a buried storage tank and needs further evaluation. Therefore, there remains a potential to encounter currently unknown materials during (or prior to with site investigation) project excavation activities.

**Finding:** The AOC concludes that mitigation measures will reduce Section 4.8.4.3's potentially significant impacts to a level that is less than significant.

**Facts in Support of Finding:** The AOC's proposed project includes implementation of the following mitigation measure:

- Mitigation Measure HAZ-1: Prior to grading or construction on the Project site, the AOC shall excavate the area approximately 20 feet west of Monitoring Well 1 evidence of an underground storage tank. If an underground storage tank is found, the AOC shall remove the tank under permit and inspection of the County of San Diego Department of Environmental Health, Underground Storage Tank Program.



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## 4.0 FINDINGS FOR THE PROJECT'S IMPACTS THAT ARE SIGNIFICANT AND CANNOT BE MITIGATED TO LEVELS THAT ARE LESS THAN SIGNIFICANT

This section of the findings summarizes the proposed project's potential effects that the AOC found to be potentially significant and that cannot be reduced to less than significant with implementation of mitigation measures. Section 4.0 of the Final EIR (Description of Environmental Setting, Project Impacts, and Mitigation Measures) includes the environmental analysis, description of mitigation measures, and explanation for the AOC's conclusions that the impacts remain significant.

### 4.1 NOISE

#### 4.2.1 Production of a Substantial Temporary or Periodic Increase in Ambient Noise Levels in the Project Vicinity Above Levels Existing Without the Project

**Significant Effects:** During construction of the New San Diego Central Courthouse, the project's presumed use of construction equipment will produce noise impacts that exceed the established thresholds.

**Finding:** The AOC concludes that mitigation measures will reduce significant construction noise impacts identified in Section 4.11, but that the impacts will remain significant. The AOC will implement Best Management Practices (BMP's as part of the construction phase to further reduce potential temporary noise impacts resulting from operation of construction equipment during excavation and demolition activities; however, technical considerations and the proximity of nearby sensitive receptors make additional mitigation measures infeasible. As described in the Statement of Overriding Considerations, the AOC has determined that the significant effects are acceptable because of the specified overriding economic, legal, social, and other considerations.

**Facts in Support of Finding:** The AOC's proposed project includes implementation of the following mitigation measures:

- (NOI-1): Prior to site mobilization, the following shall be demonstrated to the AOC and noted on construction bid documents:
  - All construction equipment shall have properly operating and maintained mufflers and other State-required noise attenuation devices;
  - The AOC's construction contractor shall post notices, legible at a distance of 50 feet, at the Project construction site. All notices shall indicate the dates and duration of construction activities, as well as provide a contact name and a telephone number where residents can inquire about the construction process and register complaints;
  - The AOC's construction contractor shall designate a Noise Disturbance Coordinator and make the coordinator responsible for responding to any local complaints about construction noise. When a complaint is received, the Noise Disturbance Coordinator shall immediately determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall implement reasonable measures to resolve the complaint; and
  - Where feasible during construction, the construction contractor shall place stationary construction equipment in locations where the emitted noise is away from sensitive noise receivers.

## 5.0 FINDINGS FOR THE PROJECT'S CUMULATIVE IMPACTS THAT ARE LESS THAN SIGNIFICANT OR NO IMPACT

This section of the findings summarizes the proposed project's potential cumulative effects that the AOC found to be less than significant or having no impact. Section 6.3, Cumulative Impacts, of the Final EIR provides the environmental analysis for the AOC's conclusions that the proposed project will not have impacts that are cumulatively considerable and are therefore not potentially significant nor significant and unavoidable.<sup>7</sup>

### 5.1 AESTHETICS AND VISUAL RESOURCES CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's incremental effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:**

1. There are no indications that other agencies will be constructing projects near the proposed courthouse construction site.
2. Most of the parcels adjacent to the Proposed Project's site are already developed, so aesthetic resources on these parcels will remain undisturbed.
3. For the adjacent undeveloped sites or sites potentially available for redevelopment, applicable Federal, State, and local requirements (including the City's cultural resource development guidelines) will prevent or mitigate any development activity's impact on aesthetic resources; and

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<sup>7</sup> The AOC's traffic analysis included analyses of cumulative impacts. The cumulative impacts are included in the traffic analysis presented in Section 4.15, Transportation and Circulation, of the Final EIR, and are set forth in these Findings at Section 2.14.

4. The project will not cause other physical changes that may affect nearby aesthetic resources or interact with other party's physical effects to affect nearby aesthetic resources.

## 5.2 AGRICULTURAL RESOURCES CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:** The project site is in a highly urbanized area in downtown San Diego. No designated farmland or agricultural lands are present, and the project will not affect or convert any properties zoned for agricultural use or affected by a Williamson Act Contract. Therefore, the project will not contribute to a cumulative impact on agricultural resources.

## 5.3 AIR QUALITY CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.<sup>8</sup>

**Facts Supporting the Finding:**

1. Construction operations will have a short duration;
2. The project's construction-related emissions for reactive organic gases, oxides of nitrogen and sulfur, and carbon monoxide are lower than the Air Pollution Control District's thresholds; and

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<sup>8</sup> The Project's cumulative greenhouse gas emissions are included in the analyses of direct impacts in Final EIR's Section 4.4.4.9, Greenhouse Gas Emission Reduction Plan, and Section 4.4.1.10 Greenhouse Gas Emissions, and in Sections 2.3.7 and 2.3.8 of these Findings.

3. The calculated operational emissions for the project are below the Air Pollution Control District's thresholds, and therefore, the project will not considerably increase the emission of ozone, PM<sub>10</sub>, or PM<sub>2.5</sub> within the District.

## 5.4 BIOLOGICAL RESOURCES CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:** As the project site is located in a highly urbanized area and is presently developed with surface parking and several small-scale structures, no native or non-native vegetation or wetland habitat is present. As such, no onsite habitat exists to support the nesting or breeding of sensitive wildlife species, and the project will not result in significant impacts on sensitive habitat or wildlife species. Therefore, the project will not contribute to a significant cumulative impact on biological resources.

## 5.5 CULTURAL RESOURCES CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:**

1. Most of the parcels adjacent to the Proposed Project's site are already developed, so any remaining cultural resources on these parcels will remain undisturbed.
2. For the adjacent undeveloped sites or sites potentially available for redevelopment, applicable Federal, State, and local requirements (including the City's cultural resource development guidelines) will prevent or mitigate any development activity's impact on cultural resources; and
3. The project will not cause other physical changes that may affect nearby cultural resources or interact with other party's physical effects to affect nearby cultural resources.



Therefore, the project will not contribute to a significant cumulative impact on cultural resources.

## 5.6 GEOLOGY, SOILS, AND SEISMICITY CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:** The AOC will adopt mitigation measures to reduce project impacts on unknown paleontological resources from excavation and grading activities to a level that is less than significant. As other projects in the downtown area will be subject to similar measures during the development phase, the project will not contribute to a cumulative impact on paleontological resources. The AOC finds no other cumulative effects with regard to geology and soils. Therefore, the project will not contribute to a significant cumulative impact with regard to geology, soils, or seismicity.

## 5.7 HAZARDS AND HAZARDOUS MATERIALS CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:**

1. The project does not involve the generation or routine handling of hazardous materials, with the exception of small amounts of commonly used and commercially available construction and maintenance materials such as paint and cleaning supplies; and
2. The project has low potential to cause exposure to hazardous materials; and
3. The project will not cause other physical changes that may affect nearby hazards or interact with other party's hazards or hazardous material resources.

Therefore, the project will not contribute to a significant cumulative impact to hazards and hazardous materials.

## 5.8 LAND USE AND PLANNING CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:** The proposed project does not conflict with existing policies or surrounding land uses and is consistent with the City's intended land use for the subject site. Therefore, the project will not contribute to a significant cumulative impact on land use or planning.

## 5.9 MINERAL RESOURCES CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:** Implementation of the project will not result in the loss of availability of a known mineral resource that is of value to the region or to the residents of the State. The downtown area is not known as an area where minerals have been extracted in the past, and the site has not been delineated on a local general plan, specific plan, or other land use plan as a locally important mineral resource recovery site. Therefore, the project will not contribute to a significant cumulative impact on minerals.

## 5.10 NOISE CUMULATIVE IMPACTS

**Finding:** For evaluation of cumulative noise impacts, if the "Future With Project" causes a 5 dBA increase in noise over the "Existing Plus Cumulative Without Project" noise level and the AOC's Project contributes 1 dBA of the cumulative 5 dBA increase, the AOC will consider the Project's contribution to be significant. The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along

with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:**

1. The AOC has no knowledge that another party plans to construct a nearby building that will contribute potentially significant cumulative construction noise;
2. All future development within the downtown area will be subject to the City's noise requirements and the regulations identified in the General Plan Noise Element and Municipal Code to reduce potential significant effects; and
3. The project's building operational noise will be similar to other tall buildings' noise, which not substantial in a dense urban area. The project's operational traffic noise will be 0.5 dBA or less, which is a noise level that is lower than the AOC's 1 dBA threshold.
4. Therefore, the project will not contribute to a significant cumulative impact on noise.

## 5.11 POPULATION AND HOUSING CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:**

1. Development of the site with the proposed courthouse-related uses will be consistent with adopted plans and policies applicable to the site; and
2. The project will not induce substantial population growth or the construction of additional housing, nor result in the displacement of existing housing.

Therefore, the project will not contribute to a significant cumulative impact for population and housing.

## 5.12 PUBLIC SERVICES CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:**

1. Public services are presently provided to the proposed site and are adequate to serve the site in the future;
2. The new courthouse will replace similar existing facilities and will not cause a significant increase in the demand for public services over existing conditions; and
3. All future development within the downtown area will be required to demonstrate that adequate services are available, or that other measures are available to allow for the provision of all public services required.

Therefore, the project will not contribute to a significant cumulative impact on public services.

## 5.13 RECREATION CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:** The project does not propose housing that will have the potential to indirectly increase public demand for area recreational facilities and will not result in a significant increase in intensity of use of public recreational resources over that

of the existing courthouse facilities. Therefore, the project will not contribute to a significant cumulative impact on recreation resources.

## 5.14 TRAFFIC AND CIRCULATION CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

### **Facts Supporting the Finding:**

1. Analysts identified no significant traffic or circulation impacts with the proposed project, and no significant parking impacts will occur since adequate parking exists to support the project; and
2. All future development within the downtown will be reviewed by the City for consistency with applicable parking requirements and potential for impacts on the existing circulation system.

Therefore, the project will not contribute to a significant cumulative demand on traffic and circulation.

## 5.15 UTILITIES AND SERVICE SYSTEMS CUMULATIVE IMPACTS

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

**Facts Supporting the Finding:** The project will create a new courthouse in downtown San Diego, but the Court will vacate its existing facilities after the new courthouse is complete, thereby largely resulting in a consolidation of staff rather than generating a significant number of new employees in the downtown area. The project will not create significant new demand on available utilities or service systems, and such utilities and service systems are adequate to serve the project site. All future development within the downtown area will be required to demonstrate that adequate services are available, or

that other measures are available to allow for the provision of such services. Therefore, the project will not contribute to a significant cumulative demand on utilities and service systems.

## 5.16 WATER QUALITY AND HYDROLOGY

**Finding:** The project's effect will not be cumulatively considerable, and the combined impact of the project's effect along with the effects of other projects is not significant. Therefore, the project's cumulative impacts will be less than significant.

### **Facts Supporting the Finding:**

1. Most of the parcels adjacent to the Proposed Project's site are already developed, so water resources on these parcels will remain undisturbed.
2. For the adjacent undeveloped sites or sites potentially available for redevelopment, and applicable Federal, State, and local requirements (including the City's development guidelines and permit requirements) will prevent or mitigate any development activity's impact on water resources;
3. The project will not cause other physical changes that may affect nearby water resources or interact with other party's physical effects to affect nearby water resources; and
4. Since the Project will include storm water control measures that regulate the flow of surface water during storm events during the construction period and the Project will comply with the City's Storm Water Municipal Permit, the project will not contribute to a cumulative water quality impact.

Therefore, the project will not contribute to a cumulative water quality impact.

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## 6.0 FEASIBILITY OF PROJECT ALTERNATIVES

### 6.1 INTRODUCTION

Section 15126.6(a) of the CEQA Guidelines states:

An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives that are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

The AOC developed a range of alternatives for prospective sites in downtown San Diego that provide sufficient space for a courthouse. The EIR compared and contrasted the potential environmental impacts of the alternatives.

Because the proposed project will result in significant unavoidable environmental effects, the AOC must consider the feasibility of alternatives to the project and evaluate whether the alternatives can avoid or substantially lessen the significant unavoidable environmental effects. The EIR must focus its alternatives analysis on alternatives that “could feasibly attain most of the basic objectives of the project;” however, the CEQA Guidelines also require an EIR to examine alternatives “capable of avoiding or lessening” environmental effects even if these alternatives “would impede to some degree the attainment of the project objectives or would be more costly.” (CEQA Guidelines Section 15126.6[b].) If the AOC finds that the project alternatives are not feasible, it must adopt findings including a Statement of Overriding Considerations with regard to the project before approving the project. The Statement Overriding Considerations must describe the



factors that warrant approval of the project despite the existence of adverse environmental impacts.

CEQA provides the following definition of the term “feasible” as it applies to the findings requirement: “‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” Public Resources Code Section 21081 provides, in part:

...[N]o public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both the following occur: (a) The public agency makes one or more of the following findings with respect to each significant effect:

...

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

Although the project still has significant environmental impacts, these Findings contrast and compare the alternatives to show that the selection of the project has substantial environmental, planning, fiscal, and other benefits. In rejecting certain alternatives, the AOC has examined both the environmental impacts and the project objectives and weighed the ability of the various alternatives to meet the objectives. After consideration of a reasonable range of alternatives, the AOC concludes that the proposed project best attains a balance between providing a new courthouse, protecting against local environmental impacts, and meeting the project’s objectives with the least environmental impact.

## 6.2 NO PROJECT ALTERNATIVE

Under the No Project Alternative, the AOC will not implement the proposed San Diego New Central Courthouse Project, the tunnel to connect the new courthouse with the

County's Central Jail, and the bridge over C Street to connect the new courthouse with the County's Hall of Justice. There will be no demolition of the existing buildings on the Stahlman Block, and the surface parking lot will remain in its current operational state. Staff from the Superior Court from other facilities including the Madge Bradley Building, Family Court, portions of the Kearny Mesa Facility, and portions of the County's Hall of Justice will continue to operate in their current buildings.

Under this alternative, the AOC will not demolish the existing County Courthouse, Old Jail, or bridges that extend from the County's Jail to the County Courthouse and from the Hall of Justice to the County Courthouse at any time in the future as part of the No Project Alternative. Since no demolition will take place, the AOC will not replace the County's existing chilled water supply to the Central Jail and Hall of Justice, which currently extends through the County Courthouse.

Under the No Project Alternative, there is no additional space for the consolidation of the Superior Court's Madge Bradley operations, the Family Law operations, and Kearney Mesa courtroom's operations, and the dispersed facilities will continue to hinder the Superior Court's efficiency and the public's access to judicial operations.

Table 6-1 provides a comparison of impacts from the No Project Alternative to the proposed project. This alternative will eliminate all of the significant impacts, including the significant and unavoidable impacts on noise; however, this alternative does not provide any of the benefits of the proposed project. Under the No Project Alternative, there is no additional space for the consolidation of the Superior Court's Madge Bradley operations, the Family Law operations, and Kearney Mesa courtroom's operations, and the dispersed facilities will continue to hinder the Superior Court's efficiency and the public's access to judicial operations.

The No Project Alternative will not achieve the Project's objectives. It will fail to:

- Provide the Superior Court with additional space or improved facilities to accommodate current and future needs of judicial operations in downtown San Diego and enhance security and the efficiency of judicial operations;
- Provide consolidated space for the Superior Court's staff and operations; and

- Remove judicial facilities that lack adequate seismic safety, security, and public access.

**Table****6-1****Summary of the Proposed Project's Impacts and the Alternatives' Impacts**

<b>Project</b>	<b>No Project Alternative</b>	<b>Reduced Project Alternative</b>	<b>Alternate Site Alternative</b>
Aesthetics/Visual Resources	No Effect	Similar <sup>9</sup>	Similar <sup>9</sup>
Agricultural Resources	No Effect	No Effect	No Effect
Air Quality	No Effect	Similar <sup>10</sup>	Similar <sup>10</sup>
Biological Resources	No Effect	Similar (No Effect)	Similar (No Effect)
Cultural and Historic Resources	No Effect	Similar <sup>9</sup>	Similar <sup>9</sup>
Geology, Soils, and Seismicity	No Effect	Similar <sup>9</sup>	Similar <sup>9</sup>
Hazards/Hazardous Materials	No Effect	Similar <sup>9</sup>	Similar <sup>9</sup>
Land Use and Planning	No Effect	Similar <sup>10</sup>	Similar <sup>10</sup>
Mineral Resources	No Effect	No Effect	No Effect
Noise	No Effect	Similar <sup>11</sup>	Similar <sup>11</sup>
Population and Housing	No Effect	Similar	Similar
Public Services	No Effect	Similar <sup>10</sup>	Similar <sup>10</sup>
Recreation	No Effect	No Effect	No Effect
Traffic	No Effect	Similar <sup>10</sup>	Similar <sup>10</sup>
Utilities and Service Systems	No Effect	Similar <sup>10</sup>	Similar <sup>10</sup>
Water Quality and Hydrology	No Effect	Similar <sup>10</sup>	Similar <sup>10</sup>

<sup>9</sup> Either less than significant or potentially significant (but less than significant after adoption of mitigation measures)

<sup>10</sup> Less than significant

<sup>11</sup> Generally less than significant, but significant despite proposed mitigation for construction-related noise

The No Project Alternative will not produce new significant environmental impacts nor require mitigation measures; however, it will extend the existing seismic hazard associated with the County Courthouse's seismic deficiencies and the building's hazardous materials exposures.

The No Project Alternative will reduce the impacts compared to the Proposed Project, and it is the environmentally superior alternative; however, this alternative does not effectively meet the project objectives, and therefore it is not feasible.

### **6.3 REDUCED PROJECT ALTERNATIVE**

The Reduced Project Alternative includes potential construction of approximately 600,000 BGSF (15 stories maximum) for 69 courtrooms, three levels of parking and mechanical functions below grade (similar to that proposed with the project), and improved facilities to enhance security and the efficiency of judicial operations. The facility will be constructed on the same site as the proposed project.

The square footage proposed with the Reduced Project Alternative is the same square footage that the County of San Diego proposed for the original design of the new courthouse in the January 1993 Program EIR. Therefore, this square footage proposed for the Reduced Project Alternative represents a potential design alternative to the current project design evaluated within this EIR. Under the Reduced Project Alternative, the new courthouse will potentially contain up to 69 courtrooms and provide approximately 100 underground parking spaces for judges and some Superior Court executives. To avoid security concerns, this alternative will not provide underground, unsecured parking for staff, jurors, or visitors.

Table 6-1 provides a comparison of the Reduced Project Alternative's impacts and the proposed project's impacts. The AOC concludes that the Reduced Project Alternative will not eliminate or reduce any of the proposed project's potentially significant impacts or the project's significant construction-related noise impact. The alternative and the project have the same significant impact, potentially significant impacts that become less than significant after adoption of the same mitigation measures, and less than significant impacts.

The Reduced Project Alternative will not achieve all of the project objectives. It will fail to:

- Provide the Superior Court with additional space or improved facilities to accommodate current and future needs of judicial operations in downtown San Diego and enhance security and the efficiency of judicial operations; and
- Provide consolidated space for the Superior Court's staff and operations.

Although the building might accommodate the intended number of courtrooms, reducing the size of the building will require severe reductions of other supporting space for separate secured movement corridors, security screening areas, administrative support and public window areas, and building support spaces. Due to the reduced size of the courthouse, the Superior Court might not choose to relocate staff operations from the other downtown facilities (Madge Bradley Building, Family Court, or portions of the Kearny Mesa Facility) which may further reduce the overall efficiency of court operations.

The AOC prepared several analyses to identify feasible alternative sites for the project in the downtown area. The Budget Package<sup>12</sup> for the Superior Court of California – County of San Diego New San Diego Central Courthouse (September 2009) provides an extensive assessment of the anticipated development and operational needs required to adequately support future Superior Court operations. The Budget Study identifies space programming objectives and needs for the facilities. Therefore, the reduced project alternative or another alternative that does not provide adequate building space for the anticipated programming needs will likely not be adequate to support court requirements.

The Reduced Project Alternative will not reduce the significant and unavoidable impacts on noise to a level that will be less than significant; however, since this alternative is not environmentally superior to the proposed project, the AOC is not selecting this alternative.

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<sup>12</sup> Available at: [http://www.courtinfo.ca.gov/programs/occm/documents/sandiego\\_budgetpackage.pdf](http://www.courtinfo.ca.gov/programs/occm/documents/sandiego_budgetpackage.pdf)

## 6.4 ALTERNATE SITE ALTERNATIVE

The specific site considered for the Alternate Site Alternative is one block to the north of the project site. The site is bordered by A Street on the north, B Street to the south, and State and Union Streets on the west and east. Except for the location, projected gross building square footage, height, and other project characteristics will be the same as the project. Similar to the project site, the site for the Alternate Site Alternative is within close proximity (but not immediately adjacent to) to the Hall of Justice and other existing County buildings. The site is one block (approximately 400 feet) north of C Street and the existing San Diego Trolley line.

Existing uses on the alternate site are similar to those on the AOC's proposed project site. The alternative site contains surface parking lots on approximately one-half of the site with single-story commercial buildings on the remainder of the property.

Table 6-1 provides a comparison of the Alternate Site Alternative's impacts and the proposed project's impacts. The Alternate Site Alternative will not achieve all of the project objectives.

The AOC finds that the alternative is feasible. The Alternate Site Alternative will offer an alternative site of adequate size for construction of the new courthouse facilities, and the alternative can achieve some of the AOC's objectives; however, the AOC concludes that the Alternate Site Alternative will not eliminate or reduce any of the proposed project's potentially significant impacts or its construction-related noise significant impact. This alternative and the project will have the same significant impact, potentially significant impacts that become less than significant after adoption of the same mitigation measures, and less than significant impacts.

Although the size of the alternate downtown site can accommodate 750,000 building gross square feet for 71 courtrooms, the Alternate Site Alternative provides limited integration and cohesiveness of the new courthouse with the Hall of Justice and other County-related uses. In particular, the Alternate Site Alternative will be over 500 feet distant from the Hall of Justice and Central Jail; since the existing County Courthouse facility is less than 100 feet from the Hall of Justice and Central Jail, the Alternate Site's location will not preserve the efficiency of the Superior Court, the District Attorney, and San Diego Sheriff since its potential tunnel linking the County's Central Jail and the Hall

of Justice with the new courthouse will be much longer than the existing tunnel connection. The use of a pedestrian bridge between the potential alternate site and the Hall of Justice is not feasible due to the distance between the alternate site and the Hall of Justice, and the use of tunnels will require greater infrastructure improvements, real estate arrangements, and additional studies for potential impacts due to the increased distances involved between the alternate site and the Hall of Justice. The AOC concludes that these relocation-related issues are specific economic, legal, social, technological, or other considerations that justify the AOC's rejection of this alternative.

## 6.5 ALTERNATIVE PROJECT SITES

In locating a potential site for the project, the AOC identified a number of alternative locations in the downtown San Diego area. The studies identified below were prepared prior to preparation of the New San Diego Central Courthouse EIR to evaluate an appropriate location for the proposed project:

- Superior Court of California County of San Diego New San Diego Central Courthouse Budget Package, Prepared by Skidmore, Owings & Merrill (SOM), LLP (September 3, 2009);
- Revised Draft Environmental Impact Report for San Diego Court/Office Building Expansion, Prepared by Michael Brandman Associates (January 11, 1993); and
- Draft Program Environmental Impact Report - San Diego County Courthouse Replacement Project, Prepared by RECON (February 2001).

The *Superior Court of California County of San Diego New San Diego Central Courthouse Budget Package* was prepared through collaboration with Superior Court judges, staff, and the AOC to identify project expectations; identify and understand the goals and challenges of the community and stakeholders; develop courtroom concepts that meet the court's needs over the next 15-20 years; and determine area requirements and space allocations of primary court functions. The study included consideration of the project site currently proposed for the San Diego New Central Courthouse Project. Additional sites were also evaluated in the two EIR's identified above. These documents

are available under separate cover at the AOC offices; refer to Section 9.0, Custodian of Record.





## **7.0 NO SIGNIFICANT NEW INFORMATION REQUIRING RE-CIRCULATION OF THE EIR**

CEQA Guidelines Section 15088.5 requires a lead agency to re-circulate an EIR for further review and comment when significant new information becomes available between the time that the lead agency gives public notice that a Final EIR is available and the time when the lead agency certifies the Final EIR. New information can include changes to the project, changes in the environmental setting, or additional information.

The AOC has not received new information or developed new information that indicates that there are new significant environmental impacts, a substantial increase in the severity of an environmental impact, or changes that affect the feasibility of a project alternative or a mitigation measure that will lessen the significant environmental impacts of the proposed project or alternatives. Therefore, the AOC finds that there has been no addition of new information following public review, and re-circulation of the EIR is not necessary.

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## 8.0 MITIGATION MONITORING AND REPORTING PLAN

As required by Public Resources Code Section 21081.6, the AOC's adoption of these findings includes adoption of the project Mitigation Monitoring and Reporting Program. The Final EIR includes the AOC's Mitigation Monitoring and Reporting Program. The AOC designed the Mitigation Monitoring and Reporting Program to ensure that all parties implementing the project will comply with these Finding's adopted mitigation measures. The AOC's mitigation program identifies measures to reduce potential project impacts. The Mitigation Monitoring and Reporting Program includes the following components:

- Project Design Features – Project Design Features are specific design elements proposed by the AOC and incorporated into the project to prevent the occurrence of potential environmental effects or to reduce the significance of potential environmental effects. Because project design features have been incorporated into the project, they do not constitute mitigation measures as defined by CEQA; however, project design features are identified in the mitigation section for each topical issue to ensure that they are included in the AOC's Mitigation Monitoring and Reporting Program to be developed for, and implemented as a part of, the Proposed Project;
- Standard Conditions and Requirements – Standard conditions and requirements are based on Federal, State, and local regulations or laws that are frequently required independently of CEQA review. They also serve to offset or prevent specific impacts. Typical standard conditions and requirements include compliance with the provisions of the Uniform Building Code (UBC), National Pollutant Discharge Elimination System (NPDES) permit system, and San Diego Air Pollution Control District Rules; and
- Mitigation Measures – Where the AOC has identified a potentially significant environmental effect despite the application of project design features and standard conditions and requirements, project-specific mitigation measures have been recommended.

The AOC finds that the Mitigation Monitoring and Reporting Program meets the requirements of Section 21081.6 of the California Public Resources Code by providing a monitoring program designed to ensure that parties implementing the project will comply with the AOC's adopted mitigation measures.

## 9.0 CUSTODIAN OF RECORD

The custodian of the record is the AOC. The record is available to the public during ordinary business hours at the:

Administrative Office of Court  
Office of Court Construction and Management  
2860 Gateway Oaks, Suite 400  
Sacramento, California 95833-3509

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## 10.0 STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIR identifies the project as the construction of a new courthouse in downtown San Diego, discusses the proposed project's unavoidable significant effects, and addresses stakeholders' comments on the Draft EIR. The AOC's implementation of proposed mitigation measures will reduce most of the significant environmental impacts of the project to less-than-significant levels; however, the Final EIR determined that the project will produce a significant unavoidable impact for construction-related noise.

"CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian" (CEQA Guidelines Section 15021[d]). To reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment, an agency must prepare a statement of overriding considerations." (CEQA Guidelines Sections 15021[d] and 15093). A statement of overriding considerations must set forth the specific reasons why the agency finds that the project's "specific economic, legal, social, technological, or other benefits" render "acceptable" its "unavoidable adverse environmental effects" (CEQA Guidelines Sections 15093[a] and 15043[b]; PRC Section 21081[b]).

Based on the Final EIR and other information in the record, the Administrative Director of the Courts determines that the economic, social, environmental, and other benefits of implementing the project outweigh and override the unavoidable adverse effect of the project. Despite the project's significant and unavoidable adverse environmental effect for construction noise, the project's benefits make the significant and unavoidable environmental effect to be acceptable because of the following considerations:

- The project is necessary to provide a new courthouse with improved security features, adequate working and operational features for the Superior Court's staff, and better public service features to the residents of San Diego County;



- The project will provide new courthouse facilities that increase the efficiency of the Superior Court's staff and operations;
- The new courthouse facilities will continue to promote more efficient interaction and communication between the court's staff and other government agencies' staff and between the Court's staff and other parties involved in judicial proceedings;
- The project will provide greater accessibility to the Superior Court for persons involved in judicial proceedings, other government agency personnel, and the public; and
- The project is consistent with the historical location of the Court (adjacent to the existing County Courthouse and Old Jail) and is located in close proximity to other governmental facilities.

The Administrative Director of the Courts adopts this statement of overriding considerations concerning the project's unavoidable significant impact and finds that the project's significant environmental impact is acceptable due to the project's benefits. Each overriding consideration warrants approval of the project, independent of the other benefits, despite the unavoidable impact. The AOC may approve the project, despite the significant unavoidable construction-related noise impact identified in the Final EIR.

Based on the entire record, the Administrative Director of the Courts has also considered and rejected feasible alternatives to the project because the alternatives are not capable of reducing identified impacts, because the alternatives offer a reduced level of benefit when compared to the project, and because the alternatives did not meet all of the objectives of the project. The proposed project offers several benefits that outweigh the significant and unavoidable environmental effect of the project.

Administrative Office of the Courts

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

  
William Vickery  
Administrative Director of the Courts

Date: \_\_\_\_\_

**Table 1**  
**Mitigation Measures and Implementation Requirements**

Mitigation Measure		Monitoring Action	Monitoring Party	Implementation Phase
<b>Aesthetics and Visual Resources</b>				
(AES-1b)	To prevent the new courthouse from generating high-velocity groundborne winds, the AOC shall include building features that will intercept winds moving down the building's face toward the ground and prevent substantial wind impacts on pedestrians.	Incorporate design measures into Project's contract specifications	AOC Project manager	During preparation of contract specifications
<b>Cultural and Historic Resources</b>				
(CR-1)	The AOC will require its developer to retain a qualified archaeologist who shall inform all excavation operation personnel of the Project's cultural resource mitigation measures prior to any earth-disturbing activities and provide instruction to recognize archaeological artifacts, features, or deposits. Personnel working on the Project will not collect archaeological resources. The qualified archaeologist will be present for pre-construction meetings and any Project-related excavations of the uppermost 15 feet of soils on the site when the AOC begins its construction operations. If construction operations discover resources in the uppermost 15 feet of soil and the resources extend below 15 feet, the archaeologist may evaluate the resources that are located below the uppermost 15 feet of soil. If construction personnel encounter soil conditions or other indicators which suggest that resources may be located below 15 feet, the AOC's qualified archaeologist will evaluate the unusual soil conditions and any resources.  Prior to construction, the qualified archaeologist shall submit a cultural resources management plan to the AOC that outlines the procedures that the AOC and construction	Incorporate cultural resources protection measures into Project's contract specifications	AOC Project manager	During preparation of contract specifications
		Document incorporation of cultural resources protection measures into Project's contract specifications to AOC's environmental analyst	AOC Project manager	Prior to completion of contract specifications
		Ensure that applicable measures are implemented	AOC construction inspector	During construction

Mitigation Measure	Monitoring Action	Monitoring Party	Implementation Phase
personnel will follow if personnel discover cultural resources during excavation operations and the documentation that the qualified archaeologist shall prepare for the monitoring effort. If the archaeologist requires assistance from a Native American monitor to evaluate potential Native American-related cultural resources, the AOC will support such assistance.			
(CR-1) cont'd  If construction operation personnel discover buried cultural resources such as chipped or ground stone or building foundations during ground-disturbing activities, excavation workers shall stop operations in that area and within 100 feet of the find until the consulting archaeologist can assess the significance of the find. The archaeologist will evaluate the discovery, determine its significance, and provide proper management recommendations. Management actions may include scientific analysis and professional museum curation. Within three months of the completion of cultural resources monitoring activities, the qualified archaeologist shall summarize the resources in a report prepared to current professional standards.	If an archaeological monitor prepares management recommendations for a discovered resource, the monitor shall document completion of the management recommendations to the AOC's Project manager, construction inspector, and environmental analyst	AOC Project manager, construction inspector, and environmental analyst	During construction
<b>Geology, Soils, and Seismicity</b>			
(GEO-1)  The AOC will require its developer to retain a qualified paleontologist who shall inform all construction excavation operations personnel of the Project's paleontological resource mitigation measures prior to any earth-disturbing	Incorporate paleontological resources protection measures into Project's contract specifications	AOC Project manager	During preparation of contract specifications

Mitigation Measure	Monitoring Action	Monitoring Party	Implementation Phase
<p>activities and provide instruction to recognize paleontological artifacts, features, or deposits. Personnel working on the Project will not collect paleontological resources. The qualified paleontologist will be present for pre-construction meetings and any Project-related excavations in undisturbed marine sediments of the upper Pleistocene Bay Point Formation and/or middle Pleistocene "upper Broadway" and "lower Broadway" formations, as well as where over-excavation of any thin veneer of younger alluvial sediments with Pleistocene marine sediments in the subsurface. Monitoring may be reduced if the potentially fossiliferous units are not present in the subsurface, or if present, are determined upon exposure and examination by qualified paleontological personnel to have low potential to contain or yield fossil resources.</p> <p>Prior to construction, the qualified paleontologist shall submit a paleontological resources management plan to the AOC that outlines the procedures that the AOC and construction personnel will follow if personnel discover paleontological resources during excavation operations. Monitoring of excavation and trenching activities shall occur in areas that the qualified paleontologist or paleontological monitor determines are likely to yield paleontological resources.</p> <p>If construction operations personnel discover buried paleontological resources during ground-disturbing activities, excavation workers shall stop operations in that area and within 100 feet of the find until the consulting paleontologist can assess the significance of the find. The paleontologist will evaluate the discovery, determine its significance, and provide proper management</p>	<p>Document incorporation of paleontological resources into Project's contract specifications to AOC's environmental analyst</p>	<p>AOC Project manager</p>	<p>Prior to completion of contract specifications</p>
	<p>Ensure that applicable measures are implemented</p>	<p>AOC construction inspector</p>	<p>During construction</p>
	<p>If the paleontological resources monitor prepares management recommendations for a discovered resource, the monitor shall document completion of the management recommendations to the AOC's Project manager, construction inspector, and environmental analyst</p>	<p>AOC Project manager, construction inspector, and environmental analyst</p>	<p>During construction</p>

Mitigation Measure		Monitoring Action	Monitoring Party	Implementation Phase
	recommendations. Management actions may include scientific analysis and professional museum curation. The qualified paleontologist shall summarize the resources in a report prepared to current professional standards.			
<b>Hazards and Hazardous Materials</b>				
(HAZ-1)	Prior to grading or construction on the Project site, the AOC shall excavate the area approximately 20 feet west of Monitoring Well 1 evidence of an underground storage tank. If an underground storage tank is found, the AOC shall remove the tank under permit and inspection of the County of San Diego Department of Environmental Health, Underground Storage Tank Program.	<p>Incorporate hazardous materials measures into Project's contract specifications</p> <p>Document incorporation of hazardous materials measures into Project's contract specifications to AOC's environmental analyst</p>	<p>AOC Project manager, AOC construction manager</p> <p>AOC Project manager</p>	<p>During preparation of contract specifications</p> <p>Prior to completion of contract specifications</p>
<b>Noise</b>				
(NOL-1)	Prior to site mobilization, the following shall be demonstrated to the AOC and noted on construction bid documents:	<p>Ensure that applicable measures are enforced during excavation</p> <p>Incorporate noise measures into Project's contract specifications and construction bid documents</p>	<p>AOC construction inspector</p> <p>AOC Project manager</p>	<p>During excavation</p> <p>During preparation of contract specifications and construction bid documents</p>

Mitigation Measure	Monitoring Action	Monitoring Party	Implementation Phase
<p>All construction equipment shall have properly operating and maintained mufflers and other State-required noise attenuation devices;</p> <p>The AOC's construction contractor shall post notices, legible at a distance of 50 feet, at the Project construction site. All notices shall indicate the dates and duration of construction activities, as well as provide a contact name and a telephone number where residents can inquire about the construction process and register complaints;</p> <p>The AOC's construction contractor shall designate a Noise Disturbance Coordinator and make the coordinator responsible for responding to any local complaints about construction noise. When a complaint is received, the Noise Disturbance Coordinator shall immediately determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall implement reasonable measures to resolve the complaint; and,</p> <p>Where feasible during construction, the construction contractor shall place stationary construction equipment in locations where the emitted noise is away from sensitive noise receivers.</p>	<p>Document incorporation of noise reduction measures into Project's contract specifications and construction bid documents to AOC's environmental analyst</p> <p>Ensure that applicable measures are enforced during excavation</p>	<p>AOC Project manager</p> <p>AOC construction inspector</p>	<p>Prior to completion of contract specifications and construction bid documents</p> <p>During construction</p>