THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: April 9, 2020 REPORT NO. PC-20-016

HEARING DATE: April 16, 2020

SUBJECT: MUNICIPAL WATERWAYS MAINTENANCE PLAN (MWMP) Process Five Decision

PROJECT NUMBER: 616992

REFERENCE: MWMP (DRAFT)
https://www.sandiego.gov/stormwater/services/wmp
Council Policy 800-04
https://docs.sandiego.gov/councilpolicies/cpd_800-04.pdf
City Charter Section 26.1
https://docs.sandiego.gov/citycharter/Article%20V.pdf
Council Policy 700-44
https://docs.sandiego.gov/councilpolicies/cpd_700-44.pdf
Information Bulletin 500
https://www.sandiego.gov/sites/default/files/dsdib500.pdf

OWNER/APPLICANT: City of San Diego Transportation & Storm Water Department

SUMMARY

Issue: Should the Planning Commission recommend to the City Council approval of a Coastal Development Permit (CDP) and Site Development Permit (SDP), and an Ordinance for implementation of the Municipal Waterways Maintenance Plan (MWMP)?

Staff Recommendation(s):

1. RECOMMEND to the City Council CERTIFICATION of
2. EIR No. 616992/SCH No. 2017071022, and ADOPTION of the Mitigation, Monitoring and Reporting Program; and

2. RECOMMEND to the City Council APPROVAL of Coastal Development Permit No. 2392208 and Site Development Permit No. 23922101; and

3. RECOMMEND to the City Council APPROVAL of an Ordinance for implementation of the MWMP.

Community Planners Committee Recommendation: The MWMP was scheduled to be heard at the Community Planners Committee on March 24, 2020; however, the meeting was cancelled due to COVID-19 restrictions. The MWMP is scheduled to be heard at the next meeting scheduled April 28, 2020. Information from the meeting will be provided under separate cover.

Other Recommendations: N/A

Environmental Review: The City of San Diego, as Lead Agency under CEQA has prepared and completed an Environmental Impact Report (EIR No. 616992/SCH No. 2017071022) and Mitigation, Monitoring and Reporting Program (MMRP) for the Municipal Waterways Maintenance Plan (MWMP) in accordance with the California Environmental Quality Act (CEQA). The MMRP includes a Mitigation Framework that will be implemented to reduce potential impacts identified in the Final EIR. A Notice of Preparation (NOP) soliciting input on the scope of the EIR was issued on July 12, 2017, and the Draft EIR 45-day public review was completed on January 10, 2020. The Final EIR, distributed with this report can be accessed online at: EIR No. 616992/SCH No. 2017071022

Fiscal Impact Statement:
The Municipal Waterways Maintenance Plan, and the proposed maintenance and repair activities associated with this project are funded by the Transportation & Storm Water Department, Storm Water Division (General Fund # 100000).

BACKGROUND

The City's Transportation & Storm Water Department (TSW) is responsible for maintaining adequate drainage facilities to remove storm water runoff in an efficient, economic, and environmentally and aesthetically acceptable manner for the protection of property and life as stipulated in Section 26.1 of the San Diego City Charter and City Council Policy 800-04. The City generally accepts responsibility for maintenance of public drainage facilities that are designed and constructed to City standards and located within a public street or drainage easement dedicated to the City. Maintenance and repairs are an important component of operating the storm water conveyance system and providing reliable flood risk reduction throughout the City. This includes removing accumulated sediment, trash, debris and vegetation that compromise the system. Often, maintenance occurs in areas where authorization or permits from various regulatory agencies are required to protect environmental resources. TSW previously conducted maintenance of drainage facilities pursuant to the former Master Storm Water System Maintenance Program (MMP).

Historically, maintenance of storm water conveyance system facilities occurred on an as-needed basis as a part of normal City operations without public review or regulatory permits. In September 2004, the County of San Diego (County), and all 18 cities within the County, received a letter titled "Directive Regarding Channel Maintenance Activities" from the Regional Water Quality Control Board (RWQCB) San Diego Region that mandated the submittal of a required technical report pertaining to channel maintenance activities and practices (RCMG 2008).

In 2013, the City adopted the Master Storm Water System Maintenance Program (MMP) to govern channel operation and maintenance activities. The MMP identified a specific planning, impact

assessment and mitigation process for channel maintenance activities. The certified Final Recirculated Programmatic Environmental Impact Report (PEIR) for the MMP included 113 channel facility segments, covering a linear distance of 32 miles. However, to authorize maintenance under the MMP, an extensive site-specific review by the regulatory agencies and the public was required prior to each maintenance activity and took up to 24 months to complete. A lawsuit was filed regarding the MMP (San Diegans for Open *Government et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2011-00101571), and the City entered into a settlement agreement that required, among other things, the City to consider the PEIR "null and void" as of September 2018 (*SDOG v. City of San Diego* 2013).

This proposed MWMP is intended to replace the MMP and was developed through a collaborative and iterative process involving City staff and multiple stakeholders, including nonprofit organizations, community groups, resource agencies, and the public at large.

DISCUSSION

Project Description:

The Municipal Waterways Maintenance Plan (MWMP) provides the regulatory guidance and parameters for the City of San Diego's (City) Transportation & Storm Water Department (TSW) to maintain and repair existing storm water facilities necessary to reduce and manage flood risk. The MWMP provides both a project-level and program-level analysis for the specific maintenance and repair activities in areas where potential local, state, and federally regulated impacts may be necessary and includes:

- A list of Facility Maintenance Plans (FMPs) that provide project-specific details and requirements for the majority of facilities that are likely to require routine maintenance and repair.

- A range of plan-wide activities that may occur throughout the storm water system where flood risks may arise and that will be conducted in accordance with a regulatory framework identified under the MWMP and associated permits.

Together, these two components provide operational flexibility while also providing specific, detailed analysis for a majority of the anticipated maintenance and repair activities.

It should be noted that subsequent to distribution of the Draft EIR, the City removed one facility group, Murphy Canyon Creek – Stadium 1 and 2 (two segments: 4-04-000 and 4-04-002) from the MWMP as reflected in the Project-Level Analysis (Facility Maintenance Plans) description below. As such, these two segments, which are located on City-owned property that is planned to be sold to California State University as part of the SDSU West redevelopment, are no longer proposed as Facility Maintenance Plans (FMPs) (i.e., maintenance covered at a project level) in the MWMP, and/or covered at a project or program level in the Final EIR. Upon completion of the property sale, the City will no longer be responsible for conducting maintenance at this facility.

Project-Level Analysis (Facility Maintenance Plans): The MWMP identifies specific channels, ditches, storm drain structures (outlets/inlets), and basins that may require maintenance. This list

of facilities is included in the MWMP for site-specific evaluation and project-level maintenance. For the project-level evaluation, the MWMP includes 66 FMPs (covering 111 segments and approximately 18 linear miles) that include the following:

- 50 channel/ditch groups – 94 segments
- 6 basins groups – 7 segments
- 10 structure groups covering 10 structures

Program-Level Analysis (Other Activities): The MWMP also includes a program-level analysis and process to handle and address other storm water assets or facilities that are not analyzed at the project-level, as well as certain plan-wide maintenance activities that may also be implemented under the MWMP. The MWMP establishes a process and mitigation framework to address these potential additional related plan-wide programmatic activities, including:

- Minor maintenance activities
- Changed conditions for new or substantially amended FMPs
- Compensatory mitigation sites
- Emergency maintenance or repair

The following plan-wide facilities comprise the City's Storm Water System:

- Approximately 50 miles of channels, ditches, and basins
- 48,561 drainage conveyance facilities (including storm drainpipes and channels)
- 55,334 structures (including inlets, outlets, cleanouts, and connectors)
- 3,724 drainage best management practice (BMP) facilities
- 85 CIP facilities (outlets, BMPs, and stream restoration)

The MWMP is intended to be adopted upon certification of the California Environmental Quality Act (CEQA) document for the MWMP, and, therefore, is subject to revisions during the CEQA process. Following CEQA certification of the MWMP's associated project-level EIR, TSW will seek several regulatory permits that may rely on the analysis contained in the certified CEQA document and require additional conditions of approval.

<u>Community Plan Analysis</u>:

The Municipal Waterways Maintenance Plan (MWMP) is subject to the policies and recommendations of the General Plan. The General Plan Land Use Element addresses land use issues that apply Citywide and provides a community planning program to refine these policies, designate land uses, and make additional site-specific recommendations as needed. Goals and policies related to land use/ environmentally sensitive lands, storm water infrastructure and visual resources are relevant to evaluating the MWMP for General Plan conformance.

The purpose of the MWMP is to manage flood hazard risk by allowing the City to adapt

management and maintenance activities to changing conditions within the storm water conveyance system. The MWMP provides for ongoing maintenance activities within existing storm water facilities as well as the repair and limited reconstruction of these facilities to as-built conditions where needed. The MWMP would streamline approvals for routine, preventive maintenance to reduce flood risks based upon monitoring performed by the Transportation and Stormwater Department. The MWMP provides for a range of plan-wide activities that may occur throughout the storm water system as well as tailored Facility Maintenance Plans for most facilities that are likely to require routine maintenance and repair.

Land Use / Environmentally Sensitive Lands

The MWMP covers the City's storm water conveyance system which consists of facilities distributed throughout the 342-square-mile metropolitan area. MWMP facilities are located within the following planning areas (refer to General Plan Figure LU-3): Balboa Park, Clairemont Mesa, City Heights, College Area, Eastern Area, Encanto Neighborhoods, Kearny Mesa, Kensington-Talmadge, La Jolla, Los Peñasquitos Canyon Preserve, Mira Mesa, Mission Bay Park, Mission Valley, Navajo, Otay Mesa, Otay Mesa-Nestor, Pacific Beach, Peninsula, Rancho Bernardo, Rancho Peñasquitos, San Ysidro, Skyline–Paradise Hills, Southeastern San Diego, Tijuana River Valley, Torrey Pines, and Uptown. Within these areas, specific recommendations are provided by various adopted community plans and park plans in which specific facilities are located. These also include several community plans that also serve as Local Coastal Program Land Use Plans. As a result, land use designations and recommendations vary in application to specific facilities.

While the MWMP is not a land use or development plan, various MWMP activities are subject to applicable General Plan policies and the MWMP facilities exist within the planning framework established by their respective community and park plans. The community plans contain the more detailed land use designations and describe the distribution of land uses better than is possible at the citywide document level and serve as the applicable land use plans. The City's park master plans serve a similar function by providing land use and other recommendations within regional and resource-based parks.

The MWMP's plan-wide and site-specific maintenance and repair activities would be compatible with the goals and policies of the land use and park plan(s) where facilities are located because the activities largely conform to or are compatible with applicable goals and policies of these plans as well as the General Plan (refer to associated EIR, Land Use Section). The MWMP does not propose new construction and the maintenance and repair activities covered by the MWMP would not require or result in changes to land uses or zoning designations.

However, MWMP activities that would necessitate removal of native vegetation (including impacts to wetland or riparian habitat) potentially conflict with General Plan goals and policies intended to preserve and protect sensitive biological resources (e.g. General Plan Conservation Element Policies CE-C.1 and CE-H.8). The potential inconsistency with goals and policies intended to preserve and protect sensitive biological resources would be addressed by approval of a Site Development Permit (SDP) which addresses compliance with the Environmentally Sensitive Lands (ESL) Regulations. The ESL Regulations serve as implementation of policies intended to preserve

and protect sensitive biological resources including lands within the MHPA.

The MWMP would also provide specific mitigation for impacts to sensitive biological resources as well as Environmental Protocols which are measures intended to avoid, minimize, and/or reduce potential environmental impacts resulting from ongoing maintenance or repair activities. The Environmental Protocols address various issue areas including biological resources, geologic conditions, hydrology, land use (MSCP Land Use Adjacency Guidelines), and water quality. Project-specific mitigation and the Environmental Protocols would ensure compliance with ESL Regulations and address any potential policy inconsistencies with the goals and policies of the General Plan and applicable land use or park plans.

Storm Water Infrastructure

The proposed maintenance and repair activities are primarily intended to ensure the reliability of the storm water system to convey floodwaters downstream. The MWMP also provides a comprehensive and environmentally sensitive approach to management of the City's storm water infrastructure. The MWMP would directly advance several General Plan Public Facilities, Services and Safety Element Policies related to storm water infrastructure by: achieving consistency with federal and state water quality regulations (PF-G.2), installation of pollutant prevention infrastructure (PF-G.2), meeting/exceeding regulatory standards protecting water quality (PF-G.3), developing a comprehensive approach to storm water infrastructure improvements (PF-G.4), implementation of BMPs for projects that repair, replace, extend or otherwise affect the storm water conveyance system (PF-G.5), and identifying collaborative efforts to sponsor and coordinate pollution prevention BMPs (PF-G.6).

Visual Resources

The General Plan as well as several community plans and park master plans where MWMP facilities are located contain goals and policies for protection of visual resources. The General Plan protects desirable views from public roadways and parklands to natural canyons, resource areas, and scenic vistas. Various community plans identify specific visual resources that are important to community character. Visual resources may also be categorized as viewsheds, scenic overlooks, view corridors, and landmarks.

MWMP facilities are distributed throughout the 342-square-mile metropolitan area within various land uses. These facilities are either within urban, developed areas where they are part of the existing character of the neighborhood, or are within natural and community open space systems where they are part of the landscape character and often follow drainage contours that are lower than surrounding landforms. Specifically, the majority of urban MWMP facilities are located in or adjacent to developed land uses such as roadways (30%), residential (25%), commercial/industrial (13%), or institutional/utilities (19%). A smaller proportion of the facilities (13%) associated with rural/agricultural land or natural open space (13%).

MWMP facilities, including channels and ditches, basins, and drainage structures, are occasionally located near public vistas, vantage points, or other areas characterized as view sensitive by the General Plan or community plans. The City has continually operated a maintenance program

including vegetation management, sediment removal, concrete repair, and embankment repair that results in changing visual characteristics within these facilities. MWMP proposed activities would be temporary, and equipment, vehicles, and storage of equipment and materials would be experienced by viewers over a short-term duration. Therefore, MWMP activities would not substantially interrupt or obstruct any scenic vista, view, or public vantage point identified by the General Plan or by a community or park plan.

Environmental Analysis:

Based on the analysis conducted for the Proposed MWMP, the City of San Diego prepared a Draft Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA). The analysis identified that the project could result in significant and unavoidable/cumulatively significant and unavoidable impacts in the areas of Biological Resources, Solid Waste, and Water Quality, and less than significant environmental impacts with implementation of Environmental Protocols (EPs) or impacts mitigated to less than significant in the areas of Aesthetics/Visual Effects and Neighborhood Character, Air Quality and Odor, Greenhouse Gas Emissions, Health and Safety Hazards, Historical, Archaeological, and Tribal Cultural Resources, Hydrology, Land Use, Noise, and Paleontological Resources.

As concluded in Chapter 5 of the Final EIR, impacts to health and safety hazards, paleontological resources, GHG, hydrology, and land use would be less than significant with implementation of Environmental Protocols (Eps). Impacts to aesthetics/visual effects and neighborhood character; air quality and odor; historical, archaeological, and tribal cultural resources; and noise, would be less than significant with implementation of identified Mitigation Measures (MMs). Lastly, impacts to biological resources, solid waste, and water quality would be significant and unavoidable. Significant and unavoidable cumulatively considerable impacts would also occur in these three issue areas as well.

Public scoping meetings were held on July 25, 2017, at the Scripps Miramar Ranch Public Library, and on August 1, 2017, at the Colonel Irving Salomon San Ysidro Community Activity Center, to gather additional public input. Comments received during the Notice of Preparation (NOP) public scoping period and meetings were considered during the preparation of this EIR. A public workshop was also held on July 13, 2016, at the Malcom X Library. Comment letters received during the NOP public scoping period expressed concern about the existing storm drain system being unable to handle runoff, impacts to biological resources/wetlands, impacts to water quality, potential upstream and/or downstream flooding, and the need to integrate channel maintenance with downstream restoration and enhancement. These concerns have been identified as areas of known controversy and were analyzed in Chapter 6, Cumulative Impacts, of the EIR. Comments received during public review of the Draft EIR expressed similar concern about impacts to biological resources/wetlands and proposed mitigation (in-watershed vs. out of watershed), impacts to water quality, non-native invasive removal as a form of mitigation, downstream impacts, subsequent analysis, low impact development approach, and a variety of general project/program related comments. Responses to all comments are included in the Final EIR.

Pursuant to CEQA Guidelines Section 15126.6, an analysis of alternatives to the City's MWMP was conducted and presented in Chapter 8 of the Final EIR. The following alternatives were analyzed therein:

- No Project Alternative (Alternative 1)
- Reduced In-Stream Maintenance Alternative (Alternative 2)
- Limited Sediment Removal Alternative (Alternative 3)
- Alternative Sediment Management Approach (Alternative 4)
- Reduced Project Alternative (Alternative 5)

All of the alternatives analyzed would reduce one or more potentially significant impacts. The No Project/No Action Alternative (Alternative 1) would result in the least reduction of impacts, since the activities proposed under the MWMP would still occur on a project-by-project basis. The Reduced In-Stream Maintenance (Alternative 2) and Alternative Sediment Management (Alternative 4) would reduce some impacts, but likely would result in greater impacts to either aesthetics/visual resources and neighborhood character, or biological resources due to the need for additional access areas. Comparing the Limited Sediment Removal Alternative (Alternative 3) and Reduced Project Alternative (Alternative 5), Alternative 3 would result in a greater reduction of significant impacts, including biological resources and solid waste. However, hydrology impacts would be increased under Alternative 3 due to increased risk of erosion in earthen-bottom facilities where vegetation would be removed but sediment would not be removed. Under Alternative 5, impacts to hydrology would be mixed; the facilities excluded from maintenance would have less potential for erosion but increased risk of flooding. Therefore, the Reduced Project Alternative (Alternative 5) is the environmentally superior alternative because it would result in the least environmental impacts while avoiding the potential increases in hydrology impacts associated with Alternative 3.

Although Alternative 5 would be the environmentally superior alternative, impacts associated with hydrology and water quality would have some increases under this alternative compared to the proposed MWMP. By avoiding maintenance within the identified four facility groups, this alternative would increase the flood risk in areas surrounding these facilities. Life and property would be at risk in these locations during flood events, and the potential for water quality degradation would be increased when flood waters exceed the channel capacity and potentially transport pollutants downstream. Therefore, this alternative would not fully achieve the objectives of the MWMP, which are aimed to reduce flooding and protect life and property.

Project-Related Issues:

An uncodified implementing Ordinance, to be approved by City Council, is being requested with the Site Development Permit and Coastal Development Permit to allow subsequent activities to be authorized through a special Substantial Conformance Review (SCR) process consistent with LDC Section 126.0112 “Modifications to a Development Permit”. Additional information regarding Substantial Conformance Review is outlined in the City’s Development Services Department Information Bulletin 500 and is a service Development Services Department provides to determine if a proposed project is consistent and in conformance with a previously approved permit and environmental document.

As subsequent MWMP activities would not trigger ministerial construction permits (e.g., building permit, electrical permit, etc.) TSW is incorporating a special SCR procedure via an Ordinance to ensure future activities (or projects) are consistent with the MWMP and the required permit

conditions, environmental protocols and mitigation measures are implemented. This process is outlined in MWMP EIR Chapter 2, Introduction, Table 2-2, Development Services Department Subsequent MWMP Process Flow Chart and incorporated as conditions in the Site Development Permit/Coastal Development to be approved by City Council via an Ordinance and further summarized below:

- Subsequent MWMP activities located outside the Coastal Overlay Zone that are analyzed at the project level would be authorized through a SCR decision made at the staff-level via Process One consistent with LDC Section 112.0502.

- Subsequent MWMP activities located inside the Coastal Overlay Zone that are analyzed at the project level would be authorized through a SCR decision made at the staff-level via Process Two. However, inconsistent with LDC Section 112.0503 for Process Two decisions, the SCR would be appealable directly to City Council, instead of Planning Commission.

Note, although not yet approved for projects located in Coastal Overlay Zone, City Council recently adopted Ordinance No. O-21164 in January 2020 for the 12th Code Update. This Code Update included amendments to LDC Section 113.0103 which defined public projects as any development located on a premises owned, leased or maintained by the City; as well as LDC Section(s) 112.0602 Process CIP/Public Project-Two, 112.0603 Process CIP/Public Project-Two Appeal Hearing, and 126.0707(c)(1) Decision Process for a Coastal Development Permit to apply to public projects. The MWMP subsequent activities would be considered a public project. Therefore, the modified SCR Process Two decision described in the MWMP and Ordinance for subsequent activities within the Coastal Overlay Zone would be consistent with the process approved in the 12th Code Update in amended LDC Section(s) 112.0602 and 112.0603.

For programmatic activities (e.g., MWMP amendments to add/substantially amend FMPs, compensatory mitigation sites, or emergency maintenance) where the environmental impacts of those activities are sufficiently addressed and mitigated for in the MWMP EIR, a SCR Process Two will be required. Whereas, an amendment to an approved development permit is required to go through the same decision process as it would for a new application for the same permit in accordance with LDC Section 126.0114. Minor maintenance is described in the MWMP as activities that do not require discretionary approval or environmental review would continue as is currently practiced. Emergency activities may be initially authorized through established emergency procedures but would require after-the-fact approvals in accordance with the appropriate process for that activity/facility. For activities not addressed in the MWMP EIR, a separate review, likely under a separate or amended permit will be required.

Subsequent project-level and program-level activities that are consistent with the MWMP would be evaluated under CEQA Guidelines Section 15162 with the certified EIR. This evaluation would determine whether to prepare a subsequent environmental document, an addendum, or no further documentation. Per CEQA Guidelines Section 15152, when a certified EIR adequately addresses significant environmental effects, subsequent projects are encouraged to tier off the certified EIR.

Conclusion:

The following are the primary objectives of the MWMP:

1. **Public safety and flood risk reduction**
    - Protect life and property adjacent to, downstream, and upstream of affected channels from flooding and environmental degradation.
2. **Responsiveness to reduce flood risk**
    - Provide for timely and consistent routine operations and maintenance in the affected channels and associated storm water conveyance infrastructure.
3. **Avoid, minimize, and/or mitigate potential effects to environmental resources**
    - Avoid, minimize, and/or mitigate significant adverse environmental effects resulting from routine maintenance of storm water facilities.
    - Incorporate and adapt to water quality management strategies intended to protect water quality and address flooding impacts.
4. **Proactive and timely approval process**
    - Provide project-level analysis up front to expedite subsequent authorizations for routine and preventive maintenance activities within storm water facilities.
    - Identify a review-and-approval process to include additional storm water facilities and maintenance activities that follow the protocols and requirements of the MWMP.
    - Reduce the need to conduct emergency maintenance during significant storm events by implementing preventive maintenance activities.

TSW has adopted a holistic management approach that seeks to maintain and improve the storm water conveyance systems simultaneously by having complementary programs that provide information to managers that allow for effective decision making regarding City funding and implementation of studies, designs, plans, and maintenance activities.

ALTERNATIVES

1. Recommend Approving COASTAL DEVELOPMENT PERMIT NO. 2392208 AND SITE DEVELOPMENT PERMIT NO. 23922101, with modifications.

2. Recommend Denying COASTAL DEVELOPMENT PERMIT NO. 2392208 AND SITE DEVELOPMENT PERMIT NO. 23922101, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

PJ FitzGerald
Assistant Deputy Director
Development Services Department

Catherine Rom
Development Project Manager
Development Services Department

LOWE/CCR
Attachments:

1. Municipal Waterways Maintenance Plan (MWMP) (or via: sandiego.gov/stormwater/services/wmp)
2. EIR No. 616992/SCH No. 2017071022 and Municipal Waterways Maintenance Plan FEIR Errata – April 2, 2020 (or via: sandiego.gov/ceqa/final)
3. Draft Environmental Resolution with MMRP
4. Draft City Council CDP/SDP Ordinance
5. Draft Permit with Conditions

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING ENVIRONMENTAL IMPACT REPORT FOR PROJECT NO. 616992, AND ADOPTING THE MITIGATION, MONITORING, AND REPORTING PROGRAM FOR CITY'S MUNICIPAL WATERWAYS MAINTENANCE PLAN FOR PROJECT NO. 616992.

WHEREAS, on April 20, 2017, the City of San Diego Transportation & Storm Water Department, Owner/Permittee, submitted an application to the Development Services Department for a Coastal Development Permit No. 2392208 and Site Development Permit No. 2392210 to provide a comprehensive approach to identify and regulate the maintenance and repair of existing storm water facilities located within the City's 342.4 square mile metropolitan area, as described in the Municipal Waterways Maintenance Plan (Project); and

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

WHEREAS, the issue was heard by the City Council on _____; and

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

WHEREAS, the City Council considered the issues discussed in Environmental Impact Report for Project No. 616992 / SCH No. 2017071022 (Report) prepared for this Project; NOW, THEREFORE,

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

BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081 and State CEQA Guidelines Section 15091, the City Council hereby adopts the Findings made with respect to the Project, which are attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that pursuant to State CEQA Guidelines Section 15093, the City Council hereby adopts the Statement of Overriding Considerations with respect to the Project, which is attached hereto as Exhibit B.

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

BE IT FURTHER RESOLVED, that the Report and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the City Clerk, 202 C Street, San Diego, CA 92101.

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

APPROVED: MARA W. ELLIOTT, City Attorney

By _____
Frederick M. Ortlieb
Deputy City Attorney

FMO:als
04/07/2020
Or.Dept:Storm Water
Doc. No.: 2360735

Attachments: EXHIBIT A – Findings
EXHIBIT B – Statement of Overriding Considerations
EXHIBIT C – Mitigation, Monitoring, and Reporting Program

Attachment 3

EXHIBIT C

Mitigation Monitoring and Reporting Program (MMRP)
Final Environmental Impact Report (FEIR)
for the
Municipal Waterways Maintenance Plan

Project No. 616992
SCH No. 2017071022

March 2020

Attachment 3

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This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Development Services Department – Records Center, 1222 First Avenue, Second Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report (EIR) No. 616992/SCH No. 2017071022 shall be made conditions of Coastal Development Permit (CDP) No. 2392208 and Site Development Permit (SDP) No. 23922101and as may be further described below.

This document identifies (1) Environmental Protocols (EPs) to reduce the potential for environmental effects; (2) mitigation measures (MMs) to be implemented prior to, during, and after maintenance activities associated with the *Municipal Waterways Maintenance Plan* (MWMP); and (3) a mitigation framework for programmatic activities.

GENERAL

1. Prior to subsequent Substantial Conformance Review (SCR) approval, the Mayor-Appointed Environmental Designee (ED) shall verify that all mitigation measures listed in this EIR have been included in entirety on the submitted construction/maintenance documents and/or contract specifications, and included under the heading, "Environmental Mitigation Requirements." In addition, the requirements for a Preconstruction Meeting shall be noted on all construction documents.
2. Prior to the commencement of work, the Transportation & Storm Water Department (TSW or applicant) shall arrange a Preconstruction Meeting (Pre-con) and include the City of San Diego's (City) Mitigation Monitoring Coordination (MMC) representative, Project Consultant(s), TSW, Construction Manager (CM) (if applicable), Resident Engineer (RE) (if applicable), and other parties of interest.
3. Prior to subsequent SCR approval, evidence of compliance with other permitting authorities, such as the State of California Fish & Game Code Section 1602, is required. Evidence shall include either copies of permits issued, letters of resolution issued by the Responsible Agency documenting compliance, or other evidence documenting compliance and deemed acceptable by the ED.
4. During the SCR review and prior to the issuance of a Notice to Proceed (NTP) for an activity, evidence of compliance or inclusion of applicable Environmental Protocols (EPs) shall be submitted to the ED for verification. The project's EPs that are incorporated into this document are listed below.

ENVIRONMENTAL PROTOCOLS

BIOLOGICAL RESOURCES

EP-BIO-1 **FMP Preparation/Verification.** The Transportation & Storm Water Department (TSW) shall prepare a Facility Maintenance Plan (FMP) for new facilities or verify consistency of the FMPs in the approved *Municipal Waterways Maintenance Plan* (MWMP) Appendix A, which shall include written and graphic depiction of the facility-specific biological resources/impacts and avoidance areas, access/staging/loading routes, the equipment that will be used to complete the maintenance, and applicable mitigation measures. FMPs are designed to avoid and minimize impacts to biological resources to the maximum extent practicable while providing flood risk reductions and ensuring the ongoing functionality of existing infrastructure. If compensatory mitigation has been provided for previously permitted maintenance areas, proof of mitigation implementation/credit will be provided as part of the FMP.

EP-BIO-2 **Lighting Restrictions.** TSW shall ensure nighttime lighting required during emergency maintenance complies with the City of San Diego (City) Outdoor Lighting Regulations pursuant to Land Development Code (LDC) Section 142.0740 to the maximum extent practicable, and shall be low-pressure sodium illumination (or similar) and directed away from the Multiple Species Conservation Program preserve when the work site is adjacent to the Multi-Habitat Planning Area (MHPA) using appropriate placement and shielding.

EP-BIO-3a **Qualified Biological Monitor.** TSW shall ensure the following protocols are included in the FMP for each project within or adjacent to sensitive biological resources:

1. **Qualified Biologist.** At least 3 days prior to the start of maintenance activities, the Project Biologist shall submit a letter to Mitigation Monitoring Coordination (MMC) that confirms a qualified monitoring biologist (QMB), as defined in the City of San Diego Biology Guidelines (SDBG), has been retained to implement required monitoring. This letter shall also include the names and resumes of all persons involved in the biological monitoring of the project, a schedule for the proposed work, and the facility's pre-approved FMP.
2. **Documentation.** Prior to commencing maintenance on any storm water facility within, or immediately adjacent to, an MHPA, the Environmental Designee (ED) shall verify that all MHPA boundaries and limits of work have been delineated on all maintenance documents.
3. **Biological Construction Mitigation/Monitoring Exhibit.** The Qualified Biologist shall present a Biological Construction Mitigation/Monitoring Exhibit (BCME),

which includes limits of work, proposed monitoring schedule, avian or other wildlife surveys/survey schedules (including general avian nesting and U.S. Fish and Wildlife Service [USFWS] protocol), timing of surveys, avian construction avoidance areas/noise buffers/barriers, other impact avoidance areas, and any subsequent requirements determined by the Qualified Biologist and the City ED/MMC. The BCME shall include the FMP site plan, written and graphic depiction of the project's biological mitigation/ monitoring program, and a schedule. Where the potential for impacts to biological resources is limited (e.g., removal of sediment or debris from an unvegetated concrete structure that flows into a closed storm drain system during the non-breeding season), the monitoring program may be limited to a pre- and post-maintenance verification inspections. For highly sensitive resource areas, full-time biological monitors may be required. The BCME shall be approved by the MMC prior to the start of maintenance.

4. **Resource Marking/Protection.** Prior to maintenance activities, the Qualified Biologist shall supervise the placement of orange construction fencing or visible marker, staking, or flagging along the limits of the facility maintenance area adjacent to sensitive biological habitats, as shown on the BCME, to ensure crews remain in the approved maintenance areas. These demarcations will not be required for facilities with existing structures, such as chain-link fencing, along the limits or facilities that are adjacent to urban and non-sensitive habitat areas.

   This phase shall include flagging plant specimens and delineating buffers to protect sensitive biological resources (e.g., habitats, sensitive flora and fauna species, including nesting birds) during construction. Appropriate steps/care shall be taken to minimize attraction of nest predators to the site.

EP-BIO-3b **Pre-Construction Meeting/Education.** Prior to the start of any activity where the FMP for the proposed maintenance area indicates that significant impacts to biological resources may occur, TSW shall arrange an on-site pre-maintenance meeting with the following in attendance: MMC representative, Project Consultant(s) (e.g., QMB), TSW, Construction Manager (CM) (if applicable), Resident Engineer (RE) (if applicable), and other parties of interest. At this meeting, the QMB shall identify and discuss the maintenance protocols that apply to the maintenance activities and the sensitive nature of the adjacent habitat with the crew and subcontractor.

At the pre-maintenance meeting, the QMB shall submit to the MMC and CM a copy of the FMP and BCME that identifies areas to be protected, fenced, and monitored. This data shall include all planned locations and design of noise attenuation walls or other devices, if applicable.

Prior to commencement of maintenance activities, the Qualified Biologist shall meet with the crew supervisor and the maintenance crew and conduct an on-site educational session regarding the need to avoid impacts outside of the approved maintenance area and to protect sensitive flora and fauna that may occur at the specific facility (e.g., explain the avian and wetland buffers, flag system for removal of invasive species or retention of sensitive plants, and clarify acceptable access routes/methods and staging areas).

EP-BIO-3c **Biological Monitoring and Reporting.** The designated QMB shall inspect/monitor the project area in accordance with the approved BCME. This may be limited to pre- and post-maintenance inspections, weekly visits, or full-time monitoring, as determined by the Qualified Biologist and MMC.

The QMB shall document monitoring events via a Consultant Site Visit Record. This record shall be sent to the TSW each month and the TSW shall forward copies to MMC. However, if weekly reports are submitted as part of a separate agency permit requirement, these reports may be forwarded to MMC in place of Consultant Site Visit Record submittals.

If no deviations from the FMP occur during maintenance, no additional documentation is required. If deviations from the FMP occur, such as unanticipated impacts to sensitive vegetation communities or unanticipated discharge of pollutants, a Final Monitoring Report shall be prepared within 3 months following the completion of mitigation monitoring detailing maintenance and monitoring that occurred and any remedial or compensatory measures taken.

EP-BIO-4 **Handling of Non-Native Invasive Plant Species.** Where an FMP involves potential disturbance of non-native invasive plant species (as identified by the California Invasive Plant Council), TSW shall implement standard environmental hygiene practices and the following maintenance procedures, or current best practices, to ensure that dispersal of propagules (e.g., seeds, stems) are avoided or minimized:

- When non-native invasive plants can be removed entirely (e.g., root and above-ground plant material), the removal shall be monitored by the QMB.
- When removing the roots of non-native invasive plants is not feasible (e.g., when erosive flows are predicted), TSW shall determine if any above-ground plant material can be removed (e.g., cut/trimmed). The removal of any above-ground plant material shall be monitored by the QMB. If herbicides are used to treat roots or cut/trimmed plants, it shall be applied by a Licensed Pest Control Advisor using chemicals permitted as safe within aquatic environments.

- When removing the roots and above-ground non-native invasive plants is not feasible (e.g., due to limited access), TSW shall coordinate with the QMB to determine if herbicides or other methods to treat plant material could be implemented. If herbicides are used to treat roots or cut/trimmed plants, it shall be applied by a Licensed Pest Control Advisor using chemicals permitted as safe within aquatic environments.
- TSW shall inspect and clean in place any equipment and tools used to handle, remove, and/or treat non-native invasive plants on a daily basis during active maintenance to limit the transfer of invasive rhizomes, seeds, and infectious agents to new off-site work areas.

EP-BIO-5 **Sensitive Plant Species Protection.** If maintenance activities will occur adjacent to areas suitable for listed and/or narrow endemic plants, and no direct impacts are proposed to occur, TSW shall ensure the boundaries of the plant populations designated sensitive by the resource agencies are clearly delineated with flagging or temporary fencing that must remain in place for the duration of the activity.

EP-BIO-6 **Handling of Potential Shot Hole Borer or Other Infestations.** If maintenance within a particular facility will impact woody riparian vegetation within a watershed where shot-hole borer is known to occur, TSW shall ensure a biologist knowledgeable of shot-hole borer life history and behavior conducts an initial pre-maintenance survey of the facility segments to determine if indicators of shot-hole borer infestation are present within the maintenance area.

If no indicators of shot-hole borer are observed, removal and disposal of the vegetative material shall proceed as planned.

If signs of shot-hole borer are observed, the following procedures, or current best practices, shall be implemented to manage the infestation and prevent further spread of the pest:

- Disinfect all tools that come into contact with infected woody material using a 5% bleach solution, Lysol spray, 70% ethanol (or isopropyl).
- Either chip or incinerate all woody vegetative material removed as part of maintenance.
    - If chipping method is used, all woody vegetative material removed as part of maintenance shall be chipped to less than 1 inch to dry the in-wood climate out and make it unsuitable for beetles or fungus.

Following chipping, material shall be solarized in the facility staging or stockpile area on site using a clear plastic or visqueen covering. The solarizing period shall be a minimum of 2 weeks during summer months and 2 months (or longer depending on weather) during winter months. The goal is to maintain temperatures under the cover between 95°F and 105°F.

For any other pests that are identified as being present within vegetation in a facility maintenance area, the maintenance and removal methods will follow the most current scientifically-supported protocol for treatment and disposal of the material in order to avoid inadvertent dispersal of the pest species.

EP-LU-1 **MSCP/MHPA - Land Use Adjacency Guidelines.** See EP-LU-1 in Land Use, below.

EP-LU-2 **MSCP/MHPA – Boundary Line Adjustment.** See EP-LU-2 in Land Use, below.

EP-WQ-1 **Water Pollution Control Plan.** See EP-WQ-1 in Water Quality, below.

GEOLOGIC CONDITIONS

EP-GEO-1 **Preparation of Geotechnical Report.** Projects that involve earthen bank repair activities as described in the *Municipal Waterways Maintenance Plan* (MWMP) are subject to compliance with Land Development Code (LDC) Section 142.0131. When earthen bank repair is necessary for a specific project, City of San Diego (City) Transportation & Storm Water Department shall ensure a geotechnical report is prepared in accordance with the Guidelines for Geotechnical Reports in the City's Land Development Manual, and the earthen bank repair design incorporates the recommendations of the geotechnical report. The geotechnical report shall also be submitted for review during the subsequent review process.

HEALTH AND SAFETY/HAZARDS

EP-HAZ-1 **Hazardous Materials Monitoring (Known Hazards).** Hazardous materials monitoring shall be performed for all excavation activities within or surrounding *Municipal Waterways Maintenance Plan* (MWMP) facilities where the potential presence of hazardous materials has been previously identified within 100 feet of closed/inactive sites, or within 200 feet of open/active sites, as identified in Table 5.5-1, Hazardous Materials Sites: Summary of Open Sites Within 1,000 feet of MWMP Facilities, in Section 5.5, Health and Safety/Hazards, of the EIR for currently identified Facility Maintenance Plans (FMPs), or based on a future regulatory database search for facilities without currently identified FMPs.

The hazardous materials monitoring shall be conducted by a 40-hour HAZWOPER-trained environmental professional experienced in the identification, assessment, handling, and disposal of contaminated soils and groundwater. The environmental professional shall use visual and olfactory observations and a photo ionization detector to screen soil for potentially hazardous materials. The Hazardous Materials Contingency Plan describes soil screening methods and steps to implement if hazardous materials are determined to be likely present by the environmental professional.

EP-HAZ-2 **Hazardous Materials Contingency Plan.** A *Hazardous Materials Contingency Plan* (HMCP) has been prepared for the proposed MWMP. City of San Diego Transportation & Storm Water Department shall ensure activities proposed under the MWMP demonstrate consistency with the approved HMCP.

The intent of the HMCP is to provide guidance to maintenance crews/contractors who may encounter known or previously unknown soil or groundwater contaminants during the course of their work. The plan includes a discussion of known contaminants and common contaminants that may be encountered during maintenance activities, field screening and monitoring procedures, procedures for managing contaminated or potentially contaminated soil stockpiles, waste characterization sampling procedures and a description of potential soil disposal options. The plan also includes protocols for reporting suspected contaminants to the appropriate regulatory agency, authority to stop work, and other necessary information.

The plan has been prepared under the direction of a licensed environmental professional experienced in the identification, assessment, handling, and disposal of contaminated soils and groundwater. Guidance and procedures presented in the plan conform with applicable federal, state, and local requirements.

EP-HAZ-3 **Facilities with Previously Unknown Hazards.** If maintenance personnel encounter soils, surface water, groundwater, or other materials that they suspect are hazardous, an on-call 40-hour HAZWOPER-trained environmental professional experienced in the identification, assessment, handling, and disposal of contaminated soils and groundwater shall be contacted to assess the suspect materials. The environmental professional shall use field screening techniques appropriate for the suspect media to determine if it is likely hazardous or if additional testing or assessment is required. If the environmental professional determines that the suspect media is likely hazardous, the material shall be managed in accordance with the approved HMCP.

HYDROLOGY

EP-HYD-1 **Post-Maintenance Erosion Control.** For facility segments in which velocities in the recommended maintenance condition are greater than the pre-maintenance condition and greater than recommended permissible velocities, post-maintenance erosion control measures shall be implemented, including check dams or other similar velocity-reduction structures. The facilities identified to need potential post-maintenance erosion control measures include the following:

- Los Peñasquitos Canyon Creek (Black Mountain 1 and 2)
- Soledad Canyon Creek (Dunhill 1)
- Tecolote Creek (Genesee 1)
- Alvarado Canyon Creek (Mission Gorge 3, Alvarado 1)
- Norfolk Canyon Creek (Baja 1)
- Washington Canyon Creek (Washington 1)
- Chollas Creek (Martin 1, Megan 2, Rolando 2)
- Auburn Creek (Wightman 1 and 2, Home 1)
- South Chollas Creek (Alpha 1)
- South Chollas Creek Encanto Branch (Castana 1, Jamacha 1)

If additional facilities are identified with a greater than recommended permissible velocity due to maintenance, they will follow the same criteria outlined in the approved *Hydrology and Hydraulics Technical Report*.

Prior to the start of maintenance activities within these facilities, the City of San Diego Transportation & Storm Water Department (TSW) shall prepare a site-specific Maintenance Plan prepared by a Professional Engineer that includes all information concerning the post-maintenance erosion-reduction goals and requirements, such as timing of installation, installation specifications, performance/assessment criteria, inspection schedule (by consultant or TSW staff), documentation of submittals, and reporting schedule. Post-maintenance erosion control measures assessment criteria include structural integrity and compliance with permit and site conditions. Additional criteria include appraisals of standing water, evidence of localized erosion, and/or sediment, trash and/or debris accumulation to assess whether the measures are functional and meet intended purpose. Post-maintenance erosion control measures shall be in conformance with the Facility Maintenance Plans for post-

maintenance erosion control included as Appendix A-4 of the *Municipal Waterways Maintenance Plan*.

At a minimum, an evaluation process shall be completed following the rainy season (i.e., November through April) to verify that the erosion control measures are effective and in serviceable condition. The evaluation process shall be conducted by qualified personnel and use observations of channel properties to allow comparison of facility conditions to site-specific performance/assessment criteria, erosion and sedimentation indicators (i.e., scour, sediment deposition, or bank erosion), and vegetation assessments. In the event that substantial erosion has occurred, erosion-impacted areas shall be identified for corrective action prior to the following rainy season. Monitoring, reporting, and repair work shall be approved and documented by TSW. Post-maintenance erosion control measures shall be evaluated for a minimum of 12 months and up to 24 months to ensure reduction in erosion risk to, at a minimum, pre-maintenance conditions.

LAND USE

EP-LU-1 **MSCP/MHPA – Land Use Adjacency Guidelines.** City of San Diego Transportation & Storm Water Department (TSW) shall accurately represent the project's design in or on the Maintenance Plans in conformance with the associated discretionary permit conditions, *Municipal Waterways Maintenance Plan* (MWMP), and the City's Multiple Species Conservation Program (MSCP) Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines. The Maintenance Plans and subsequent review documents shall include the following:

A. ***Drainage*** – All new and proposed parking lots and developed areas in and adjacent to the preserve must not drain directly into the MHPA. All developed and paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials, and other elements that might degrade or harm the natural environment or ecosystem processes within the MHPA. This can be accomplished using a variety of methods including natural detention basins, grass swales or mechanical trapping devices. These systems should be maintained approximately once a year, or as often as needed, to ensure proper functioning. Maintenance should include dredging out sediments if needed, removing exotic plant materials, and adding chemical-neutralizing compounds (e.g., clay compounds) when necessary and appropriate.

Ground disturbance under the MWMP shall be limited to removal of accumulated material in storm water facilities and no paved lots or new development shall be installed. Measures would be taken to prevent runoff of

hazardous materials from access, staging, and stockpile locations consistent with the City Storm Water Standards Manual, see EP-WQ-1 in Water Quality.

B. Toxics/Project Staging Areas/Equipment Storage – Land uses, such as recreation and agriculture, that use chemicals or generate byproducts such as manure, that are potentially toxic or impactive to wildlife, sensitive species, habitat, or water quality need to incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. Such measures should include drainage/detention basins, swales, or holding areas with non-invasive grasses or wetland-type native vegetation to filter out the toxic materials. Regular maintenance should be provided. Where applicable, this requirement should be incorporated into leases on publicly-owned property as leases come up for renewal.

The use of chemicals, pesticides, herbicides, and other substances that are potentially toxic or impactive to native habitats/flora/fauna (including water) shall be accompanied by measures that reduce impacts caused by the application and/or drainage of such materials into the MHPA consistent with the City Storm Water Standards Manual (see EP-WQ-1 in Water Quality).

C. Lighting – Lighting of all developed areas adjacent to the MHPA should be directed away from the MHPA. Where necessary, development should provide adequate shielding with non-invasive plant materials (preferably native), berming, and/or other methods to protect the MHPA and sensitive species from night lighting.

No permanent lighting or routine night work is proposed under the MWMP. See EP-BIO-2 in Biological Resources.

D. Noise – Uses in or adjacent to the MHPA should be designed to minimize noise impacts. Berms or walls should be constructed adjacent to commercial areas, recreational areas, and any other use that may introduce noises that could impact or interfere with wildlife utilization of the MHPA. Excessively noisy uses or activities adjacent to breeding areas must incorporate noise reduction measures and be curtailed during the breeding season of sensitive species. Adequate noise reduction measures should also be incorporated for the remainder of the year.

See MM-BIO-4, MM-BIO-5, MM-BIO-6, and MM-BIO-7 in Biological Resources.

E. Barriers – New development adjacent to the MHPA may be required to provide barriers (e.g., non-invasive vegetation, rocks/boulders, fences, walls, and/or

signage) along the MHPA boundaries to direct public access to appropriate locations and reduce domestic animal predation.

Not applicable to MWMP maintenance activities because no developed land uses are proposed. Compensatory mitigation installed under the MWMP shall include appropriate barriers or directive fences to protect the MHPA.

F. ***Invasives*** – No invasive non-native plant species shall be introduced into areas adjacent to the MHPA.

Any plant species installed within 100 feet of the MHPA as part of revegetation work shall comply with the Landscape Regulations (LDC Section 142.0400 and per Table 142-04F, Permanent Revegetation and Irrigation Requirements) and be non-invasive. Also, see EP-BIO-4 in Biological Resources.

G. ***Brush Management*** – New residential development located adjacent to and topographically above the MHPA (e.g., along canyon edges) must be set back from slope edges to incorporate Zone 1 brush management areas on the development pad and outside of the MHPA. Zones 2 and 3 will be combined into one zone (Zone 2) and may be located in the MHPA upon granting of an easement to the City (or other acceptable agency) except where narrow wildlife corridors require it to be located outside of the MHPA. Zone 2 will be increased by 30 feet, except in areas with a low fire hazard severity rating where no Zone 2 would be required. Brush management zones will not be greater in size that is currently required by the City's regulations. The amount of woody vegetation clearing shall not exceed 50% of the vegetation existing when the initial clearing is done. Vegetation clearing shall be done consistent with City standards and shall avoid/minimize impacts to covered species to the maximum extent possible. For all new development, regardless of the ownership, the brush management in the Zone 2 area will be the responsibility of a homeowners association or other private party.

Not applicable to MWMP activities because no developed land uses or structures requiring fire protection are proposed.

H. ***Grading/Land Development/MHPA Boundaries*** – Manufactured slopes associated with site development shall be included within the development footprint for projects within or adjacent to the MHPA.

No manufactured slopes are proposed or associated with the MWMP.

EP-LU-2 **MSCP/MHPA – Boundary Line Adjustment.** Compensatory Mitigation Sites proposed to be added to the MHPA must result in an equivalent or higher biological

value for the following areas, based on findings prepared by the City and concurrence received from the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife:

- Effects on significantly and sufficiently conserved habitats
- Effects to covered species
- Effects on habitat linkages and function of preserve areas
- Effects on preserve configuration and management
- Effects on ecotones or other conditions affecting species diversity
- Effects to species of concern not on the covered species list

PALEONTOLOGICAL RESOURCES

EP-PAL-1 **Paleontological Resource Compliance.** Pursuant to Land Development Code (LDC) Section 142.0151, the City of San Diego (City) Transportation & Storm Water Department (TSW) shall verify grading quantities and geologic formation sensitivity for all maintenance and repair activities and apply the appropriate requirements for paleontological monitoring in accordance with the General Grading Guidelines for Paleontological Resources in the City's Land Development Manual. Geologic formation sensitivity is provided in Table 5.10-3, Paleontological Sensitivity of Earthen-Bottom Facilities, in Section 5.10, Paleontological Resources, of the EIR. Regulatory compliance for maintenance and repair activities would be assured through notes on plans and/or substantial conformance review documentation.

SOLID WASTE

EP-SW-1 **Waste Management Plan.** The City of San Diego (City) Transportation & Storm Water Department (TSW) has prepared a *Waste Management Plan* in accordance with the City's *California Environmental Quality Act Significance Determination Thresholds*. The *Waste Management Plan* adheres to the City's Guidelines for a Waste Management Plan. The *Waste Management Plan* includes a description of the project and overall timeline, and identifies the type and tonnage of waste that would be generated, identifies ways to manage or reduce the waste (e.g., source reduction, recycling, composting), summarizes and identifies the effectiveness of different measures used to reduce waste, and identifies a plan for implementation. The *Waste Management Plan* also identifies the name and location of recycling, reuse, and landfill facilities where recyclables and waste shall be taken if not reused on site.

The *Waste Management Plan* shall be approved by the Environmental Services Department, and TSW shall ensure the approved *Waste Management Plan* is implemented prior to the start of any maintenance activity proposed under the *Municipal Waterways Maintenance Plan*.

EP-SW-2 **Reusable Materials.** Soil, sand, and silt shall be screened to remove waste debris and re-used as fill material, aggregate, or other raw material unless conditions specified in the *Waste Management Plan* make the use of screening equipment inappropriate or infeasible. For maintenance activities in concrete-lined or earthen-bottom storm water facilities that are not located in areas with known contamination or where unexpected contamination is encountered, a shaker or comparable equipment to separate and/or sort material shall be used, unless conditions specified in the *Waste Management Plan* make the use of this equipment inappropriate or infeasible, to separate reusable and recyclable materials from non-reusable materials. Once excavated material has been placed in stockpiles, it shall be screened and separated with the use of a shaker or comparable equipment unless this process is found to be infeasible, per the specifications in the *Waste Management Plan*. Reusable materials (e.g., soil, sand, or silt) that have been separated out shall be diverted to other sites within the City that are in need of fill, aggregate, or other raw materials unless specific conditions provided in the *Waste Management Plan* indicate that reuse is not appropriate or feasible.

EP-SW-3 **Suitable Reuse.** If not reused on site, excess fill dirt shall be beneficially reused by means of dirt brokers, or donated to another project, or advertised as available via print ad, online, or any other suitable means unless conditions specified in the *Waste Management Plan* make diversion of geologic materials infeasible.

EP-SW-4 **Green Waste.** Green waste material shall be diverted from disposal and put to the highest and best use (e.g., compost or landfill cover), unless conditions specified in the *Waste Management Plan* make diversion of green waste infeasible.

EP-SW-5 **Tire Disposal.** Waste tires shall be separated and transported to an appropriate recycling facility. If more than nine tires are in a vehicle or waste bin at any one time, they shall be transported under a completed Comprehensive Trip Log to document that the tires were taken to an appropriate recycling facility.

EP-SW-6 **Material Diversion.** When removal of sediments and debris from channels and storm drains are required, a preliminary estimate of the materials that can be diverted to beneficial use shall be made. Receipts from disposal, re-use, and recycling options shall indicate that 50% of materials are diverted. These uses shall include (a) recycling; (b) composting; (c) use as a fill material; (d) alternative daily

cover; (e) land application; (f) cement, brick, block, or asphalt constituent; (g) road bed; (h) beach replenishment; or (i) other non-disposal use.

EP-SW-7 **Landfill Notification.** Only facilities properly permitted by the state, County of San Diego, or local authorities, where applicable, shall be used. Notification shall be provided to the Miramar Landfill at least 24 hours in advance of bringing in 10 tons or more of waste in any 1 day, or 60 tons or more in any 1 month.

EP-SW-8 **Composting.** Compostable green waste shall be taken to an approved composting facility, if available, unless conditions specified in the *Waste Management Plan* make diversion of green waste infeasible.

WATER QUALITY

EP-WQ-1 **Water Pollution Control Plan.** The City of San Diego (City) Storm Water Standards Manual require the development of a *Water Pollution Control Plan* (WPCP) that outlines the best management practices (BMPs) and pollution prevention measures that shall be implemented prior to and during maintenance activities (hereafter referred to as "facility water quality protection BMPs"). A *Municipal Waterways Maintenance Plan* (MWMP) facility-specific WPCP shall be developed prior to maintenance, using the WPCP Guidance Document specific to the MWMP. These facility-specific WPCPs shall be tailored to address facility-specific water quality conditions and BMP requirements based on the actual maintenance procedures that will be performed and the location of the Multi-Habitat Planning Area (MHPA) boundary. BMPs shall ensure no trash, oil, parking, or other maintenance-related material/activities adversely affect the MHPA preserve. The BMP categories that shall be addressed in each WPCP include the following:

- Project planning
- Good site management "housekeeping"
- Non-storm water management
- Erosion control
- Sediment control
- Run-on and run-off control

Consistent with the City Storm Water Standards Manual and other regulatory requirements, each WPCP shall include objectives, responsibilities, and maintenance and inspection standards to ensure adherence to pollution prevention standards.

MITIGATION MEASURES

AIR QUALITY AND ODOR

MM-AQ-1 **Tier 4 Interim Construction Equipment.** Prior to the commencement of any four or more concurrent construction activities, the City of San Diego Transportation & Storm Water Department (TSW) or its designee shall sum the estimated corresponding maximum daily construction nitrogen oxide (NOx) emissions from Table 5.2-6, Estimated Maximum Daily Construction Emissions By Representative Project (Unmitigated), in Section 5.2, Air Quality and Odor, of the EIR, to determine if the combined emissions exceed the San Diego Air Pollution Control District (SDAPCD) construction threshold of 250 pounds per day for NOx. If the combined NOx emissions exceed the SDAPCD threshold, TSW or its designee shall provide evidence that, for off-road equipment with engines rated at 75 horsepower or greater, no equipment shall be used that is less than Tier 4 Interim. An exemption from these requirements may be granted if TSW documents that equipment with the required tier is not reasonably available and corresponding reductions in criteria air pollutant emissions are achieved from other construction equipment. Before an exemption may be considered by the Environmental Designee/Mitigation Monitoring Coordination, TSW shall be required to demonstrate that three construction fleet owners/operators in the San Diego region were contacted and that those owners/operators confirmed Tier 4 Interim equipment could not be located within the San Diego region. If Tier 4 Interim equipment is not reasonably available, then all diesel-powered equipment, equal to or greater than 75 horsepower shall have at least California Air Resources Board-certified Tier 3 engines with the most effective Verified Diesel Emission Control Strategies available for the engine type, such as Level 3 Diesel Particulate Filters (Tier 4 engines automatically meet this requirement), which provides an equivalent reduction.

BIOLOGICAL RESOURCES

MM-BIO-1a: **Compensatory Wetlands Mitigation.** Significant impacts to sensitive wetlands, including jurisdictional aquatic resources, resulting from maintenance that require mitigation based on thresholds summarized in Table 5.3-3, Significance of Impacts to Vegetation Communities and Jurisdictional Resources, in Section 5.3, Biological Resources, of the EIR, shall be mitigated through (A) implementation of habitat creation, restoration, enhancement, and/or preservation through an approved Habitat Mitigation and Monitoring Plan (HMMP) or (B) acquisition of approved mitigation credits, including City of San Diego (City) Advanced Permittee Responsible Mitigation (APRM) sites. Both A and B are equally suitable and equivalent mitigation.

Wetland mitigation required as part of any federal (404) or state (1601/1603) wetland permit shall supersede and shall not be in addition to any mitigation identified in the California Environmental Quality Act (CEQA) document for those wetland areas covered under any federal or state wetland permit. Wetland habitat outside the jurisdiction of the federal and state permits shall be mitigated in accordance with the CEQA document for those wetland areas covered under any federal or state wetland permit. Wetland habitat outside the jurisdiction of the federal and state permits shall be mitigated in accordance with the CEQA document.

A) An HMMP shall be prepared in accordance with the City of San Diego Biology Guidelines (SDBG). Mitigation shall conform with the SDBG including definitions for creation, restoration, enhancement, and acquisition identified under Environmentally Sensitive Lands (ESL), including satisfaction of no-net-loss by including at least a 1:1 ratio of creation or restoration for all areas of significant impacts to wetlands (Table 5.3-8, Wetland Mitigation Ratios).

   When proposed mitigation involves habitat enhancement, restoration, or creation, the HMMP shall include the following information:

   - Conceptual planting plan including planting zones, grading, and irrigation;
   - Seed mix/planting palette;
   - Planting specifications;
   - Monitoring program including success criteria; and
   - Long-term maintenance and preservation plan.

   For mitigation which involves habitat acquisition, the HMMP shall include the following:

   - Location of proposed acquisition;
   - Description of the biological resources to be acquired including support for the conclusion that the acquired habitat mitigates for the specific maintenance impact; and
   - Documentation that the mitigation area would be adequately preserved and maintained in perpetuity.

B) Allocation of mitigation site credits, including City APRM shall include the following:

   - Location of approved mitigation site;

- Description of the mitigation credits to be acquired including support for the conclusion that the acquired habitat mitigates for the specific maintenance impact;
- Documentation the credits are associated with a mitigation bank or APRM site that has been approved by the appropriate Resource Agencies; and
- Documentation in the form of a current mitigation credit ledger.

Table 5.3-8
Wetland Mitigation Ratios

HABITAT TYPE	MITIGATION RATIO
Coastal Wetlands:	
- Salt marsh	4:1
- Salt panne	4:1
Riparian Habitats:	
- Oak riparian forest	3:1
- Riparian forest or woodland	3:1
- Riparian scrub	2:1
- Riparian scrub in the Coastal Overlay Zone	3:1
Freshwater Marsh	2:1
Freshwater Marsh in the Coastal Overlay Zone	4:1
Natural Flood Channel	2:1
Disturbed Wetland	2:1
Vernal Pools	2:1 to 4:1
Marine Habitats	2:1
Eelgrass Beds	2:1

Notes:
Any impacts to wetlands must be mitigated "in-kind" and achieve a "no-net loss" of wetland function and values except as provided for in Section 3B (Economic Viability Option).

* Mitigation for vernal pools impacts consistent with the Vernal Pool Habitat Conservation Plan shall be 2:1 for listed fairy shrimp or when no listed plant species are present, 3:1 for San Diego button celery, and 4:1 when listed species with very limited distributions (e.g., *spreading navarretia, San Diego mesa mint, California Orcutt grass, and Otay mesa mint*) are present. While the ratio is applied to the basin area, the mitigation site must include appropriate watershed to support restored and/or enhanced basins.

MM-BIO-1b **Compensatory Uplands Mitigation.** Cumulative impacts to sensitive uplands under the *Municipal Waterways Maintenance Plan* (MWMP) are generally limited in size (i.e., less than the 5- to 10- acre threshold established in the SDBG) and, therefore, shall be mitigated in accordance with the applicable SDBG mitigation ratios (Table 5.3-9, Upland Mitigation Ratios) through payment into the City's Habitat Acquisition Fund (Fund #10571), as established by City Council Resolution R-275129, adopted on February 12, 1990, or dedication of credits from the City's Cornerstone Lands Marron Valley Mitigation Bank.

Table 5.3-9
Upland Mitigation Ratios[1]

TIER	HABITAT TYPE	MITIGATION RATIOS
TIER 1[2] **(rare uplands)**	Southern Foredunes Torrey Pines Forest Coastal Bluff Scrub Maritime Succulent Scrub Maritime Chaparral Scrub Oak Chaparral Native Grassland Oak Woodlands	Location of Preservation Location of Impact: Inside* — Inside 2:1, Outside 3:1; Outside — Inside 1:1, Outside 2:1
TIER II[3] **(uncommon uplands)**	Coastal Sage Scrub (CSS) CSS/Chaparral	Location of Preservation Location of Impact: Inside* — Inside 1:1, Outside 2:1; Outside — Inside 1:1, Outside 1.5:1
TIER IIIA[3] **(common uplands)**	Mixed Chaparral Chamise Chaparral	Location of Preservation Location of Impact: Inside* — Inside 1:1, Outside 1.5:1; Outside — Inside 0.5:1, Outside 1:1
TIER IIIB[3] **(common uplands)**	Non-Native Grasslands[4]	Location of Preservation Location of Impact: Inside* — Inside 1:1, Outside 1.5:1; Outside — Inside 0.5:1, Outside 1:1
TIER IV **(other uplands)**	Disturbed Land Agriculture Eucalyptus Woodland Ornamental Plantings	Location of Preservation Location of Impact: Inside* — Inside 0:1, Outside 0:1; Outside — Inside 0:1, Outside 0:1

Notes:

1. No mitigation would be required for impacts within the base development area (25%) occurring inside the Multi-Habitat Planning Area (MHPA). Mitigation for any impacts from development in excess of the 25% base development area for community plan public facilities or for projects processed through the deviation process would be required at the indicated ratios.
2. For all Tier I impacts, the mitigation could (1) occur within the MHPA portion of Tier I (in Tier) or (2) occur outside of the MHPA within the affected habitat type (in-kind).

3. For impacts to Tier II, III A, and III B habitats, the mitigation could (1) occur within the MHPA portion of Tiers I – III (out-of-kind) or (2) occur outside of the MHPA within the affected habitat type (in-kind).
4. Mitigation for impacts to occupied burrowing owl habitat (at the subarea plan specified ratio) must be through the conservation of occupied burrowing owl habitat or conservation of lands appropriate for restoration, management, and enhancement of burrowing owl nesting and foraging requirements.

MM-BIO-2 **Unintended Impact Mitigation.** Should any impacts occur outside of the authorized impact limits, they would be considered permanent and mitigated by either (1) providing mitigation in accordance with the applicable SDBG mitigation ratios or (2) installing an on-site habitat revegetation and erosion control treatment within any unintentional disturbance areas in native habitat in accordance with the SDBG and the Landscape Standards in the City's Land Development Manual. Habitat revegetation shall feature native species that are typical of the area, and erosion control features shall include silt fence and straw fiber rolls, where appropriate (e.g., in areas where sheet flow during rain events may cause erosion). The revegetation areas shall be monitored and maintained for a minimum of 25 months to ensure adequate establishment and sustainability of the plantings/seedlings to reduce the risk of erosion and/or non-native, invasive plant species establishment, in accordance with the Landscape Standards in the City's Land Development Manual.

MM-BIO-3: **Species-Specific Sensitive Plant Mitigation.** Focused surveys shall be conducted to determine presence/absence for Multiple Species Conservation Program (MSCP) Narrow Endemic plant species, non-MSCP covered federally and/or state listed plant species, or non-MSCP covered California Rare Plant Rank 1B.1 or 1B.2 species (see Table 5.3-4a, Sensitive Plant Species by Mitigation Type, in Section 5.3, Biological Resources, of the EIR) previously observed or with high or moderate potential to occur within each facility, prior to maintenance. For species that can only be reliably detected during specific blooming periods, focus surveys may need to be conducted during those periods to determine presence/absence. If these species occur within the newly proposed maintenance, access, staging, or stockpiling areas, one of two equally suitable options shall be implemented:

A) Maintenance areas shall be modified to avoid direct impacts to mapped sensitive plant species.

B) Implement an approved Conceptual Restoration Plan or acquisition of mitigation credits that provides one or more of the following measures:

- Impacted plants would be salvaged and relocated;
- Seeds from impacted plants would be collected for use at an off-site location;

- Off-site habitat that supports the species impacted shall be enhanced and/or supplemented with seed collected on site; and/or
- Comparable habitat supporting the species at an off-site location shall be preserved.

Mitigation that involves relocation, enhancement, or transplanting sensitive plants may be conducted in combination with other habitat mitigation (e.g., wetlands HMMP) and shall include the following:

- Conceptual planting plan, including grading and temporary irrigation if necessary to create appropriate habitat conditions to support the species;
- Planting specifications (e.g., seed source, soil suitability, container size);
- Monitoring program including success criteria (e.g., a minimum number of sensitive plant individuals, a minimum percent cover of native species, a maximum percent cover of non-native species); and
- Long-term maintenance and preservation plan (e.g., sensitive plant monitoring, adaptive management actions, site security from trespass or vandalism).

MM-BIO-4: **Avoidance of Nesting Bird Impacts.** To avoid any direct impacts to any species identified as a candidate, sensitive, or special status species in the MSCP or other local or regional plans, policies or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service (USFWS), removal of habitat that supports active nests in the proposed area of disturbance shall occur outside of the breeding season of these species (January 15 through September 15), where feasible.

If removal of habitat in the proposed area of disturbance must occur during the breeding season, the Qualified Biologist shall conduct a pre-construction survey to determine the presence or absence of nesting birds within the proposed area of disturbance. The pre-construction survey shall be conducted no more than seven calendar days prior to the start of construction activities (including removal of vegetation).

TSW shall submit the results of the pre-construction survey to City Development Services Department for review and approval prior to initiating any construction activities. If nesting birds are detected, a general survey report or and an avoidance plan, if applicable, in conformance with the SDBG and applicable state and federal law (e.g., appropriate follow-up surveys, monitoring schedules, and construction barriers/buffers) shall be prepared and include proposed measures to be

implemented to ensure that take of birds or eggs is avoided. The report and/or avoidance plan shall be submitted to the City for review and approval and implemented to the satisfaction of the City. The City's Mitigation Monitoring Coordination (MMC) Section and Qualified Biologist shall verify and approve that all measures identified in the report and/or avoidance plan are in place prior to and/or during construction.

MM-BIO-5: **Avoidance of Listed Species Take.** Prior to the preconstruction meeting, the Environmental Designee (ED)/MMC shall verify that Multi-Habitat Planning Area (MHPA) boundaries and the requirements regarding the least Bell's vireo, Ridgway's rail, California least tern, and southwestern willow flycatcher as specified below, are shown on the Facility Maintenance Plans.

No clearing, grubbing, grading, or other construction activities shall occur during the least Bell's vireo and Ridgway rail's breeding season (March 15 through September 15), California least tern breeding season (April 15 through September 15), or southwestern willow flycatcher breeding season (May 1 through September 1) until the following requirements have been met to the satisfaction of the ED/MMC:

1. A Qualified Biologist (possessing a valid Endangered Species Act Section 10[a][1][a] Recovery Permit) shall survey those habitat areas within the MHPA that would be subject to construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of the least Bell's vireo and southwestern willow flycatcher. Surveys for least Bell's vireo and southwestern willow flycatcher, shall be conducted pursuant to the protocol survey guidelines established by the USFWS within the breeding season prior to the commencement of any construction. If least Bell's vireo or southwestern willow flycatcher are present, then the following conditions must be met:
    a. March 15 through September 15 for least Bell's vireo and May 1 through September 1 for southwestern willow flycatcher, no clearing, grubbing, or grading of occupied habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a Qualified Biologist; and
    b. March 15 through September 15 for least Bell's vireo and May 1 through September 1 for southwestern willow flycatcher, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of occupied habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied

habitat must be completed by a Qualified Acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the ED/MMC at least 2 weeks prior to the commencement of construction activities. Prior to the commencement of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a Qualified Biologist; or

c. At least 2 weeks prior to the commencement of construction activities, under the direction of a Qualified Acoustician, attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities would not exceed 60 dB(A) hourly average at the edge of habitat occupied by the least Bell's vireo, and/or southwestern willow flycatcher. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring shall be conducted at the edge of the occupied habitat area to ensure that levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the Qualified Acoustician or Biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 16). Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the ED/MMC, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

2. If least Bell's vireo and/or southwestern willow flycatcher are not detected during the protocol survey, the Qualified Biologist shall submit substantial evidence to the ED/MMC and applicable resource agencies that demonstrates whether or not mitigation measures such as noise walls are necessary from March 15 through September 15 for least Bell's vireo, and/or May 1 through September 1 for southwestern willow flycatcher, adherence to the following is required:

a. If this evidence indicates that the potential is high for least Bell's vireo and/or southwestern willow flycatcher to be present based on historical records or site conditions, then Condition 1(a) shall be adhered to as specified above.

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

3. If work is proposed within a facility segment where Ridgway's rail has been identified to have a moderate or high potential to occur (Appendix E to Appendix D, *Biological Resources Technical Report*, of the EIR), then an agency-approved biologist will perform the following duties prior to the start of maintenance:

   a. A minimum of three focused pre-construction surveys on separate days, to determine the presence of Ridgway's rails in the facility project impact area outside the rail breeding season. Surveys will begin a maximum of 7 days prior to performing project construction and one survey will be conducted the day immediately prior to performing project construction. Immediately after the facility maintenance area is surveyed by a biologist, a 3- to 5-foot-tall exclusionary fence with 2-inch mesh openings shall be installed at the upstream and downstream limits of the facility to discourage entry of Ridgway's rails into the construction area and to ensure that impact limits are not exceeded;

   b. Before each day of maintenance begins, a Qualified Biologist shall survey the maintenance area to determine if Ridgway's rails have entered the facility impact area. If any rails are found within this area, the biologist will direct construction personnel to begin in an area away from the rails;

   c. The biologist will walk ahead of maintenance equipment to flush birds toward areas of the facility that will be avoided. The biologist will also record the number and location of any Ridgway's rails disturbed by project construction.

MM-BIO-6: **Avoidance of Raptor Breeding Impacts.** If maintenance is planned to occur during the raptor breeding season (January 15 through August 31), a pre-maintenance survey for active raptor nests shall be conducted in areas supporting suitable habitat.

If active raptor nests are found, maintenance shall not occur within:

- 300 feet of a Cooper's hawk nest,
- 900 feet of a northern harrier's nest, or

- 300 feet of any other raptor's nest until the Qualified Biologist determines the nesting cycle is complete (i.e., when fledglings become independent).

If removal of any eucalyptus trees or other trees used by raptors for nesting within a maintenance area is proposed during the raptor breeding season (January 15 through August 31), a Qualified Biologist shall ensure that no raptors are nesting in such trees.

If maintenance occurs during the raptor breeding season, a pre-maintenance survey shall be conducted and no maintenance shall occur within 300 feet of any nesting site of Cooper's hawk or other nesting raptor until the young fledge. Should the biologist determine that raptors are nesting, the trees shall not be removed until after the breeding season.

In addition, if removal of grassland or other habitat appropriate for nesting by northern harriers, a Qualified Biologist shall ensure that no harriers are nesting in such areas. If maintenance occurs during the raptor breeding season, a pre-maintenance survey shall be conducted and no maintenance shall occur within 900 feet of any nesting site of northern harrier until the young fledge.

Noise and other potential disturbance to active raptor nests from maintenance activities shall be minimized in accordance with MM-BIO-4.

MM-BIO-7: **Avoidance of California Gnatcatcher Breeding Impacts in MHPA.** Prior to the preconstruction meeting, the ED/MMC shall verify that the MHPA boundaries, and the requirements regarding the coastal California gnatcatcher, as specified below, are shown on the Facility Maintenance Plans.

No clearing, grubbing, grading, or other construction activities shall occur during the coastal California gnatcatcher breeding season (March 1 through August 15 on MHPA lands), until the following requirements have been met to the satisfaction of the ED/MMC:

1. A Qualified Biologist (possessing a valid Endangered Species Act Section 10[a][1][a] Recovery Permit) shall survey those habitat areas within the MHPA that would be subject to construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of the coastal California gnatcatcher. Surveys for coastal California gnatcatcher shall be conducted pursuant to the protocol survey guidelines established by USFWS within the breeding season prior to the commencement of any construction.

If coastal California gnatcatchers are present, then the following conditions must be met:

a. March 1 through August 15 on MHPA lands, no clearing, grubbing, or grading of occupied coastal California gnatcatcher habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a Qualified Biologist; and

b. March 1 through August 15 on MHPA lands, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of occupied coastal California gnatcatcher habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a Qualified Acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the ED/MMC at least 2 weeks prior to the commencement of construction activities. Prior to the commencement of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a Qualified Biologist; or

c. At least 2 weeks prior to the commencement of construction activities, under the direction of a Qualified Acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities would not exceed 60 dB(A) hourly average at the edge of habitat occupied by the coastal California gnatcatcher. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the Qualified Acoustician or Biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (August 16). Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the ED/MMC, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly

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

2. If coastal California gnatcatchers are not detected during the protocol survey, the Qualified Biologist shall submit substantial evidence to the ED/MMC and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary from March 1 through August 15 on MHPA lands as follows:

   a. If this evidence indicates that the potential is high for coastal California gnatcatcher to be present based on historical records or site conditions, then Condition 1(a) shall be adhered to as specified above.

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

HISTORICAL, ARCHAEOLOGICAL, AND TRIBAL CULTURAL RESOURCES

MM-CR-1 Cultural Resources Monitoring and Treatment Plan (CRMTP).

I. Prior to Start of Activities Marked as Requiring Further Review in Table 5.6-4, Archaeological Review Matrix, in Section 5.6, Historical, Archaeological, and Tribal Cultural Resources, of the EIR, and as Determined Necessary by a Qualified Archaeologist's Review of the Proposed Maintenance Activity

   A. Preparation of CRMTP

      1. Prior to the start of construction, the Principal Investigator (PI) archaeologist shall prepare a CRMTP that specifies and describes:

         - The cultural resources Area of Potential Effect (APE)
         - The roles and responsibilities of all parties involved in the monitoring and/or treatment program, including inter-agency relationships for the purposes of compliance with Section 106 of the National Historic Preservation Act (NHPA), California Environmental Quality Act (CEQA), and the City of San Diego (City) Historical Resources Regulations and Historical Resources Guidelines (HRG).
         - Reporting protocols
         - Construction monitoring methods
         - Avoidance and protection measures for all cultural resources

- Procedures for evaluating resource significance, and/or data recovery for significant resources (known and unanticipated discoveries) that cannot be avoided within the linear footprint, unless human remains are encountered and require removal for the purpose of repatriation. City established data recovery procedures include in-situ recordation, recovery, laboratory analysis, curation and/or repatriation, and reporting.
- Consultation obligations and timelines for providing feedback
- Post-construction requirements

2. The PI shall prepare the draft CRMTP and submit to the City of San Diego Point of Contact for review and to facilitate any stakeholder consultation obligations.

MM-CR-2 **Avoidance of Cultural Resources.** The following measure shall be implemented to protect known archaeological resources that may also be tribal cultural resources (hereafter referred to as "cultural resources") that have not been evaluated for significance or that have been evaluated as significant under Section 106 and CEQA.

I. Prior to Start of Activities Marked as Requiring Further Review in Table 5.6-4, Archaeological Review Matrix, in Section 5.6, Historical, Archaeological, and Tribal Cultural Resources, of the EIR, and as Determined Necessary by a Qualified Archaeologist's Review of the Proposed Maintenance Activity

A. Identified cultural resources that have not been evaluated for significance or that have been evaluated as significant under Section 106 of the NHPA and/or CEQA, shall be avoided through project design. These include resources that were either found outside of the work limits or for which significance evaluation did not identify significant archaeological deposits within the work limits.

1. Prior to the start of construction, the Principal Investigator (PI) archaeologist shall ensure that resource-specific avoidance measures are implemented to prevent unanticipated impacts. These measures may include exclusionary fencing, environmentally sensitive area signage, or other measures deemed appropriate and as specified in the CRMTP.

MM-CR-3 **Construction Monitoring.** The following monitoring program shall be implemented to protect unknown archaeological or tribal cultural resources that may be encountered during construction and/or maintenance-related activities.

I. Prior to Permit Issuance or Bid Opening/Bid Award for Activities Marked as Requiring Further Review in Table 5.6-4, Archaeological Review Matrix, in Section 5.6, Historical, Archaeological, and Tribal Cultural Resources, of the EIR, and as Determined Necessary by a Qualified Archaeologist's Review of the Proposed Maintenance Activity

   A. Entitlements Plan Check

      1. Prior to permit issuance or Bid Opening/Bid Award, whichever is applicable, the Environmental Designee (ED) shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the applicable construction documents through the plan check process.

   B. Letters of Qualification have been submitted to ED

      1. Prior to Bid Award, the City's Transportation & Storm Water Department (TSW) shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the PI for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City's HRG. If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.

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

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

II. Prior to Start of Construction

   A. Verification of Records Search

      1. The PI shall provide verification to MMC that a site-specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coastal Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.

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

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

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; TSW shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), MMC representative, Project Consultant(s), TSW, Construction Manager (CM) (if applicable), Resident Engineer (RE) (if applicable), and other parties of interest. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.

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

2. Acknowledgement of Responsibility for Curation (Capital Improvement Program or Other Public Projects)

    TSW shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the archaeological monitoring program.

3. Identify Areas to be Monitored

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

    b. The AME shall be based on the results of a site specific records search as well as information regarding the age of existing pipelines, laterals and associated appurtenances and/or any known soil conditions (native or formation).

    c. MMC shall notify the PI that the AME has been approved.

4. When Monitoring Will Occur

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

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

5. Approval of AME and Construction Schedule

After approval of the AME by MMC, the PI shall submit to MMC written authorization of the AME and Construction Schedule from the CM.

III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

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

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

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

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

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by email with photos of the resource in context, if possible.
4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.

C. Determination of Significance

1. The PI and Native American consultant/monitor, where Native American resources are discovered shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
    a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
    b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval of the program from MMC, CM, and RE. ADRP and any mitigation must be approved by MMC, RE, and/or CM before ground disturbing activities in the area of discovery will be allowed to resume. **Note: If a unique archaeological site is also an historical resource as defined in CEQA Section 15064.5, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.**

(1) Note: For pipeline trenching and other linear projects in the public Right-of-Way, the PI shall implement the Discovery Process for Pipeline Trenching projects identified below under "D."

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

(1) Note: For Pipeline Trenching and other linear projects in the public Right-of-Way, if the deposit is limited in size, both in length and depth; the information value is limited and is not associated with any other resource; and there are no unique features/artifacts associated with the deposit, the discovery should be considered not significant.

(2) Note, for Pipeline Trenching and other linear projects in the public Right-of-Way, if significance cannot be determined, the Final Monitoring Report and Site Record (DPR Form 523A/B) shall identify the discovery as Potentially Significant.

D. Discovery Process for Significant Resources – Pipeline Trenching and other Linear Projects in the Public Right-of-Way

The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities or for other linear project types within the Public Right-of-Way including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance:

1. Procedures for documentation, curation and reporting

a. One hundred percent of the artifacts within the trench alignment and width shall be documented in-situ, to include photographic records, plan view of the trench and profiles of side walls, recovered, photographed after cleaning and analyzed and curated. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact.

b. The PI shall prepare a Draft Monitoring Report and submit to MMC via the RE as indicated in Section VI-A.

c. The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) the resource(s) encountered during the Archaeological Monitoring Program

in accordance with the City's HRG. The DPR forms shall be submitted to the South Coastal Information Center for either a Primary Record or SDI Number and included in the Final Monitoring Report.

d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area and no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

1. Archaeological Monitor shall notify the RE, as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS) of the Development Services Department to assist with the discovery notification process.
2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

B. Isolate discovery site

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.
2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenience.
3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains **ARE** determined to be Native American

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.

3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
    a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being granted access to the site, OR;
    b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, the landowner shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance, THEN
    c. To protect these sites, the landowner shall do one or more of the following:
        (1) Record the site with the NAHC;
        (2) Record an open space or conservation easement; or
        (3) Record a document with the County. The document shall be titled "Notice of Reinterment of Native American Remains" and shall include a legal description of the property, the name of the property owner, and the owner's acknowledged signature, in addition to any other information required by PRC 5097.98. The document shall be indexed as a notice under the name of the owner.
    d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the

appropriate treatment measures the human remains and items associated and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.

D. If Human Remains are **NOT** Native American

1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, TSW/landowner, any known descendant group, and the San Diego Museum of Man.

V. Night and/or Weekend Work

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

1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
2. The following procedures shall be followed.

a. No Discoveries

In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSVR and submit to MMC via email by 8AM of the next business day.

b. Discoveries

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

c. Potentially Significant Discoveries

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

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

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

1. The Construction Manager shall notify the RE, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, as appropriate, shall notify MMC immediately.

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

VI. Post Construction

A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the City's HRG (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC via the RE for review and approval within 90 days following the completion of monitoring. **It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe as a result of delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.**

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

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

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

2. MMC shall return the Draft Monitoring Report to the PI via the RE for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC via the RE for approval.

4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

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

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection C.
3. The PI shall submit the Accession Agreement and catalogue record(s) to the RE, as appropriate for donor signature with a copy submitted to MMC.
4. The RE, as appropriate shall obtain signature on the Accession Agreement and shall return to PI with copy submitted to MMC.
5. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE and MMC.

D. Final Monitoring Report(s)

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

2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution

MM-CR-4 **Evaluation of Program-Level Activities.** Prior to the initiation of any program-level activities in new locations that have not been previously identified in Table 5.6-4, Archaeological Review Matrix, and Table 5.6-5, Non-Exempt Activities, in Section 5.6, Historical, Archaeological, and Tribal Cultural Resources, of the EIR, and prior to the initiation of non-exempt program-level activities in new locations that have not been previously identified in Table 5.6-6, Historical Resources Review Matrix, and Table 5.6-7, Program-Level Activities Exempt from Further Historical Review, in Section 5.6, Historical, Archaeological, and Tribal Cultural Resources, of the EIR, the activity and specific location shall be evaluated by a qualified PI. The evaluation shall determine (a) the presence (or lack thereof) of archaeological and/or historical resources located within the APE; (b) whether identified resources have been previously evaluated and (c) whether a site visit is necessary to determine the cultural sensitivity and the extent of previous ground disturbance. If determined to be necessary, site visits and related documentation shall be conducted in a manner consistent with the methods employed in the Historical Resources and Cultural Resources Inventory/Evaluation Reports prepared for the MWMP EIR. Based on the results of future archaeological evaluations, the PI (in consultation with the City) shall determine whether additional avoidance and minimization measures, MM-CR-1 through MM-CR-3, and/or MM-HR-1 through MM-HR-2 would be required for the non-exempt program-level activity.

MM-HR-1 **Avoidance of Historical Resources.** Should avoidance of an historical resource be impractical, the following shall be implemented to protect known historical resources that have not been evaluated for significance or that have been evaluated as significant under Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA):

I. Prior to Start of Activities Marked as Requiring Further Review in Table 5.6-6, Historical Resources Review Matrix, in Section 5.6, Historical, Archaeological, and Tribal Cultural Resources, of the EIR, and as Determined Necessary by a Qualified Architectural Historian's Review of the Proposed Maintenance Activity

A. Principal Investigator (PI) Shall Attend Pre-Construction Meetings

1. Prior to beginning any ground-disturbing work, City of San Diego (City) Transportation & Storm Water Department (TSW) shall arrange a pre-construction meeting that shall include the PI, Native American

consultant/monitor (where Native American resources may be impacted), Mitigation Monitoring Coordination (MMC) representative, Project Consultant(s), TSW, Construction Manager (CM) (if applicable), Resident Engineer (RE) (if applicable), and other parties of interest. The principal investigator, or his/her designated representative, shall attend any ground-disturbance related preconstruction meetings to ensure that the proposed maintenance activity is exempt from further historical resource review.

MM-HR-2 **Recording and Evaluation of Historic Properties.** Should avoidance of a historic property be impractical, the following shall be implemented to document and evaluate historical resources pursuant to Section 106 of the NHPA and CEQA, and City Historical Resources Guidelines (HRG).

I. Prior to Start of Activities Marked as Requiring Further Review in Table 5.6-6, Historical Resources Review Matrix, in Section 5.6, Historical, Archaeological, and Tribal Cultural Resources, of the EIR, and as Determined Necessary by a Qualified Architectural Historian's Review of the Proposed Maintenance Activity

   A. For identified historical resources that have not been documented or evaluated for significance pursuant to Section 106 of NHPA and CEQA.

      1. A qualified Architectural Historian shall document and evaluate identified historical resources prior to the commencement of construction/maintenance activities. Documentation and evaluation shall be presented in an Historical Resources Technical Report as defined by the City of San Diego Historical Resources Board.

      2. Documentation of historical resources shall be done on the appropriate California Department of Parks and Recreation (DPR) 523 forms, and shall include a significance evaluation. DPR 523 forms shall be appended to the Historical Resources Technical Report.

      3. DPR 523 forms shall be submitted to the State Historic Preservation Office (SHPO) for concurrence.

      4. After SHPO concurrence, the DPR forms shall be submitted to the South Coastal Information Center (SCIC).

   B. For identified historical resources previously documented and/or evaluated for significance pursuant to Section 106 of NHPA and CEQA

      1. A qualified Architectural Historian shall update existing DPR 523 forms for previously identified and documented historical resources prior to the commencement of maintenance activities.

2. Updated DPR 523 forms with new or revised significance evaluations will be submitted to the SHPO for concurrence.
3. After SHPO concurrence, the updated DPR forms will be submitted to the SCIC.

NOISE

MM-NOI-1 **Noise Reduction Techniques.** Prior to the Notice to Proceed, Mitigation Monitoring Coordination (MMC) shall verify that projects (i.e., maintenance and repair activities) located within 100 feet of noise-sensitive receivers include noise-reduction measures to ensure activities do not exceed and comply with City of San Diego (City) Noise Standards (San Diego Municipal Code Section 59.5.0401, Sound Level Limits, and Section 59.5.0404, Construction Noise), as follows:

A. The City Transportation & Storm Water Department (TSW) crew or maintenance/construction contractor shall be required to work in such a manner so as not to exceed a 12-hour average sound level of 75 dBA between 7:00 a.m. and 7:00 p.m. Monday through Saturday.

B. Noise reduction measure(s) shall include implementation of any one or more of the following noise-reducing measures:

   a. Limit the number of equipment operating at once;

   b. Install temporary plywood noise barriers 8 feet in height between the maintenance site and sensitive receptors;

   c. Construction equipment shall be properly outfitted with sound control devices and maintained with manufacturer recommended noise-reduction devices to minimize construction-generated noise. “Properly outfitted” implies that the device (e.g., silencer, muffler) is effective in that it is the correct size and type for the specific equipment, it is in good working order, and is installed in such a way that it reduces the noise in the way it was intended;

   d. Stationary noise sources such as generators or pumps shall be located at least 100 feet from noise-sensitive land uses as feasible;

   e. Laydown and maintenance/construction vehicle staging areas shall be located as far from noise sensitive land uses as feasible; and/or

   f. As recommended by a qualified acoustician, implement any other alternative noise reducing best available technologies, methods or practices as approved by the MMC.

C. During maintenance or repair activities, noise monitoring can be conducted at any time to ensure that the work is in compliance with the City's construction noise standard of 75 dBA L_{eq} (12-hour). If activities are found to be in exceedance of this standard, alternative methods (e.g., such as the use of quieter equipment, fewer pieces of equipment operating at any one time) shall be implemented and verified by MMC to meet City noise standards.

D. Prior to the issuance of the Notice to Proceed or if work is stopped during maintenance or repair activities by the MMC, TSW shall obtain a permit or similar authorization from the Noise Abatement and Control Administrator if maintenance and repair activities does not comply with San Diego Municipal Code Section 59.5.0404 – Construction Noise.

E. If authorized emergency work is necessary and will likely occur or exceed these noise limitations, TSW shall notify the Noise Abatement and Control Administrator within 48 hours after commencement of work.

WATER QUALITY

MM-BIO-1a **Compensatory Wetlands Mitigation.** See MM-BIO-1a in Biological Resources, above.

MM-WQ-1 **Beneficial Water Quality Activities.** One of three, equally suitable water-quality activities listed within in Table 5.12-4, MWMP Additional Beneficial Water Quality Activities, in Section 5.12, Water Quality, of the EIR, shall be implemented for facilities where maintenance activities result in jurisdictional, vegetated wetlands loss, and construction of compensatory wetlands mitigation has not been initiated (i.e., significant investment/substantial work) at the time maintenance is completed.

Table 5.12-4
MWMP Additional Beneficial Water Quality Activities

Item[1]	Activity[2]	Implementation Quantity[3]	Implementation Detail
1	Maintenance-specific outreach	250 units[4]	Per maintenance event
	Enhanced in-watershed catch basin inspection and cleaning	25 locations[5]	Quarterly inspection and cleaning for 1 year per maintenance event
2	Enhanced street sweeping	1 mile[6]	Per 5 linear feet of wetland impact
3	GI-MUTA-stream rehabilitation	1 project[7]	Per facility maintained

GI = green infrastructure; MUTA = multi-use treatment area

1 Under the MWMP, the City's Transportation & Storm Water Department (TSW) would implement one of three, equally suitable water-quality activities for each facility group maintained where mitigation is not yet constructed. Items 1 or 2 would be implemented each fiscal year that maintenance occurs. Item 3 would be implemented once, and no additional water-quality-benefit features would be required.

2 Beneficial water-quality-activity implementation is specific to the MWMP program. Activities are not included as part of the City *Water Quality Improvement Plan* or other compliance efforts.

3 Calculation-based methodology applied to derive beneficial water-quality-activity implementation quantities.

4 250 in-watershed parcels.

5 25 in-watershed catch basin locations inspected and cleaned quarterly for one fiscal year.

6 1 mile additional in-watershed vacuum-assisted and/or median street sweeping effort per 5 linear feet of wetland impact within the fiscal year when maintenance occurs.

7 One in-watershed GI-MUTA-stream rehabilitation project 500 square feet or greater as implemented by the TSW. GI-MUTA-stream rehabilitation projects greater than 1,000 square feet may be used for multiple facilities and maintenance events.

When applicable, items 1 or 2 shall be implemented each fiscal year that maintenance occurs. Item 3 shall be implemented once, and no additional water quality mitigation would be required. Implementation of Items 1, 2, or 3 is independent of required compensatory habitat mitigation to be performed as part of MM-BIO-1a.

MITIGATION FRAMEWORK

The MWMP Mitigation Framework included below, which would be certified as part of the MWMP, would be implemented on an activity-by-activity basis for covered maintenance activities, as well as future activities that are consistent with the provisions of the MWMP.

ENVIRONMENTAL PROTOCOLS AND MITIGATION MEASURES

Aesthetics/Visual Effects and Neighborhood Character

MM-AES-1 **Visual Analysis for Program Activities.** Where program activities, including construction of compensatory mitigation sites, would entail the introduction of new vegetation and (potential) substantial view blockage or interruption of a community plan identified vista, scenic view, or public vantage point, additional analysis shall be conducted. The analysis shall consider the nature of program-level activities; proximity to community plan identified vista, scenic view, or public vantage point; and potential for program-level activities to result in substantial, long-term view obstruction. If the analysis determines that substantial view obstruction may occur, then additional mitigation, including the selection of plants and trees with a shorter form, shall be considered in planting palettes to maintain existing view corridors at community plan identified views, scenic vistas, or public vantage points.

Historical, Archaeological, and Tribal Cultural Resources

MM-CR-4 **Evaluation of Program-Level Activities.** Prior to the initiation of any program-level activities in new locations that have not been previously identified in Table 5.6-4, Archaeological Review Matrix, and Table 5.6-5, Non-Exempt Activities, in Section 5.6, Historical, Archaeological, and Tribal Cultural Resources, of the EIR, and prior to the initiation of non-exempt program-level activities in new locations that have not been previously identified in Table 5.6-6, Historical Resources Review Matrix, and Table 5.6-7, Program-Level Activities Exempt from Further Historical Review, in Section 5.6, Historical, Archaeological, and Tribal Cultural Resources, of the EIR, the activity and specific location shall be evaluated by a qualified PI. The evaluation shall determine (a) the presence (or lack thereof) of archaeological and/or historical resources located within the APE; (b) whether identified resources have been previously evaluated and (c) whether a site visit is necessary to determine the cultural sensitivity and the extent of previous ground disturbance. If determined to be necessary, site visits and related documentation shall be conducted in a manner consistent with the methods employed in the Historical Resources and Cultural Resources Inventory/Evaluation Reports prepared for the MWMP EIR. Based on the results of future archaeological evaluations, the PI (in consultation with the City) shall determine whether additional avoidance and minimization measures, MM-CR-1 through MM-CR-3, and/or MM-HR-1 through MM-HR-2 would be required for the non-exempt program-level activity.

Air Quality and Odor; Biological Resources; Geologic Conditions; Greenhouse Gas Emissions; Health and Safety/Hazards; Historical, Archeological, and Tribal Cultural Resources; Hydrology; Land Use; Noise; Paleontological Resources; Solid Waste; and Water Quality

Prior to subsequent Substantial Conformance Review (SCR) approval for program activities, the Mayor-Appointed Environmental Designee (ED) shall verify that a project-level analysis has been completed that provides evidence of the applicability and effectiveness of the identified Environmental Protocols (EPs) and Mitigation Measures (MMs), including that no new or substantial increase in the severity of previously identified significant effects shall occur.

Air Quality and Odor

MM-AQ-1

Biological Resources

EP-BIO-1 through EP-BIO-6; EP-LU-1; EP-LU-2; EP-WQ-1; and MM-BIO-1a through MM-BIO-7

Geologic Conditions

EP-GEO-1

Greenhouse Gas Emissions

EP-SW-1 through EP-SW-8

Health and Safety/Hazards

EP-HAZ-1 through EP-HAZ-3

Historical, Archaeological, and Tribal Cultural Resources

MM-CR-1 through MM-CR-3; MM-HR-1 and MM-HR-2

Hydrology

EP-HYD-1

Land Use

EP-LU-1 and EP-LU-2

Noise

MM-NOI-1

Paleontological Resources

EP-PAL-1

Solid Waste

EP-SW-1 through EP-SW-8

Water Quality

EP-WQ-1; MM-BIO-1a; and MM-WQ-1

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ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING COASTAL DEVELOPMENT PERMIT NO. 2392208 AND SITE DEVELOPMENT PERMIT NO. 2392210; APPROVING A PROCEDURE FOR SUBSTANTIAL CONFORMANCE REVIEWS; ALL RELATED TO THE CITY'S MUNICIPAL WATERWAYS MAINTENANCE PLAN – PROJECT - NO. 616992.

WHEREAS, the City of San Diego Transportation & Storm Water Department, Owner/Permittee, filed an application with the City of San Diego for a Coastal Development Permit No. 2392208 and Site Development Permit No. 2392210 to provide a comprehensive approach to identify and regulate the maintenance and repair of existing storm water facilities located within the City's 342.4 square mile metropolitan area, as described in the Municipal Waterways Maintenance Plan (MWMP) (Exhibit A); and

WHEREAS, the storm water facilities are located within portions of the Coastal Overlay, Open Space, Open Space, Agricultural, Residential, Commercial and Industrial Zones and within Clairemont Mesa, College Area, Encanto Neighborhoods, Kearny Mesa, Mid-City, Mira Mesa, Mission Valley, Navajo, Otay Mesa, Rancho Bernardo, Rancho Penasquitos, Skyline-Paradise Hills, Southeastern San Diego, Uptown, La Jolla, Otay-Mesa Nestor, Pacific Beach, San Ysidro, Tijuana River Valley, and Torrey Pines Community Plan(s) and Local Coastal Program Land Use Plan(s); and

WHEREAS, on_____, 2020, the Planning Commission of the City of San Diego considered Site Development Permit (SDP) No. 2392210 and Coastal Development

Permit (CDP) No. 2392208, and pursuant to Resolution No.____-PC, the Planning Commission voted to recommend approval/denial of the Permits; and

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

WHEREAS, the matter was set for public hearing on _____, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

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

Section 1. That the following findings with respect to Site Development Permit (SDP) No. 2392210 and Coastal Development Permit (CDP) No. 2392208 are hereby adopted:

A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0505

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan.

The MWMP proposes the maintenance and repair of existing storm water facilities; specifically, open channels, detention basins, and drain structures that the City's Transportation & Storm Water Department has the responsibility to maintain and repair to provide flood control. The MWMP allows the City to promptly address newly identified flood risks while also streamlining approvals for routine preventive maintenance that reduces flood risks. To accomplish this, the MWMP identifies the following:

1. A range of plan-wide activities that may occur throughout the storm water system where flood risks may arise which are to be conducted in accordance with a regulatory framework identified under the MWMP and associated permits.
2. A list of Facility Maintenance Plan facilities and channels (FMPs) that provide specific details and requirements for the majority of facilities and channels that are likely to require routine maintenance and repair.

Plan-wide activities include minor maintenance or repair; changed conditions for new or substantially amended FMPs; compensatory mitigation sites; and emergency maintenance or repair. Project-level activities (i.e., site-specific FMP) maintenance and repair activities include, but are not limited to, vegetation management; sediment removal; drain structural clearing (outlets and inlets); invasive plant species management; concrete repair and replacement; and bank repair. Together these two Plan and Project level components provide operational flexibility while also providing specific, detailed analysis for the majority of anticipated maintenance and repair activities to streamline the review and approval process.

The MWMP covers maintenance activities within the City's storm water conveyance system which consists of facilities distributed throughout the 342-square-mile metropolitan area. While the MWMP is not a land use or development plan, various MWMP activities are subject to applicable General Plan policies and the MWMP facilities exist within the planning framework established by their respective community plans. The community plans contain the more detailed land use designations and describe the distribution of land uses more specifically than is possible at the citywide document level and they therefore serve as the applicable land use plans. The City's park master plans serve a similar function by providing land use and other recommendations within regional and resource-based parks. MWMP facilities are located within

21 community plans (including seven that are also Local Coastal Program Land Use Plans), and five park master plans.

The applicable Community Plans are as follows:

- Clairemont Mesa
- College Area
- Encanto Neighborhoods
- Kearny Mesa
- Mid-City (City Heights, Eastern Area, and Kensington-Talmadge Communities
- Mira Mesa
- Mission Valley
- Navajo
- Otay Mesa
- Rancho Bernardo
- Skyline-Paradise Hills
- Southern San Diego
- Uptown

The applicable Community Plan and Local Coastal Program Land Use Plans are as follows:

- La Jolla
- Otay Mesa-Nestor
- Pacific Beach
- Peninsula
- San Ysidro
- Tijuana River Valley
- Torrey Pines

The applicable Park Master Plans are as follows:

- Balboa Park Master Plan
- Famosa Slough Enhancement Plan
- Los Penaquitos Canyon Preserve Master Plan
- Mission Bay Park Master Plan
- Mission Trails Regional Park Master Plan Update
- San Diego River Park Master Plan

The MWMP's plan-wide and site-specific maintenance and repair activities will not adversely affect the applicable land use and park plans where facilities are located because the activities largely conform to or are compatible with applicable goals and policies of the General Plan, with applicable community plans and park plans, or will not preclude their attainment. The MWMP proposes no new development or construction, and the maintenance and repair activities

covered by the MWMP will not require or result in changes to land uses or zoning designations. Overall, the proposed MWMP, which is considered maintenance rather than a development plan, will not conflict with designated land uses or land use recommendations within any applicable adopted land use plan.

The proposed maintenance and repair activities are intended to ensure the reliability of the City's storm water system to convey floodwaters downstream. The MWMP was reviewed for applicability of, and conformity with, the goals, policies, and recommendations of the General Plan and applicable community and park plans as discussed in its associated Environmental Impact Report for Project No. 616992, SCH NO. 2017071022, dated March 6, 2020 (inclusive of errata issued April 2, 2020) (EIR). The analysis determined that the MWMP directly supports or conforms with several General Plan goals and policies (e.g., General Plan Public Facilities, Services and Safety Element Policies PF-G.2, PF-G.3, PF-G.4, PF-G.5, and PF-G.6), and is compatible with other goals and policies as evaluated in EIR Table 5.8-1, General, Community, and Park Plan Policy Evaluation.

However, activities under the MWMP that will necessitate native vegetation removal, some of which will be wetland or riparian habitat, potentially conflict with goals and policies intended to preserve and protect sensitive biological resources (e.g., General Plan Conservation Element Policies CE-C.1 and CE-H.8). The potential inconsistency with goals and policies intended to preserve and protect sensitive biological resources is addressed by approval of the project's Site Development Permit (SDP) which addresses compliance with the City's Environmentally Sensitive Lands (ESL) Regulations. The ESL Regulations serve as implementation of General Plan policies intended to preserve and protect sensitive biological resources as well as implementation of the Multiple Species Conservation Plan (MSCP) Subarea

Plan. The MWMP also includes specific Environmental Protocols (EPs) in the areas of Biological Resources, Geologic Conditions, Health and Safety/Hazards, Hydrology, Land Use (MSCP Land Use Adjacency Guidelines), Paleontological Resources, Solid Waste and Water Quality that will minimize adverse effects to ESL. The EIR also identifies specific mitigation measures related to Air Quality and Odor, Biological Resources, Historical, Archaeological, and Tribal Cultural Resources, Noise and Water Quality that will further mitigate direct impacts or potential adverse effects to sensitive biological resources. The EIR's EPs and mitigation measures provide an additional compliance mechanism that will ensure minimization and adequate mitigation of any impacts to sensitive biological resources as a result of MWMP activities. Both the project's SDP and EP's serve to effectively implement goals and policies relevant to preservation and protection of sensitive biological resources of the General Plan and applicable land use plans, including lands within the MSCP Multi-Habitat Planning Area. The project addresses any potential policy inconsistencies so that the policies, goals and objectives the General Plan and applicable land use plans are not adversely affected.

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

The MWMP is not a development plan and the maintenance activities covered by the MWMP will not be detrimental to the public health, safety, and welfare as a primary objective of the MWMP is intended to address potential risks to public, health, safety, and welfare due to flood hazards. The primary objectives of the MWMP which address public health, safety, and welfare in some manner are described as:

1. Public safety and flood risk reduction.

    - Protect life and property adjacent to, downstream, and upstream of affected channels from flooding and environmental degradation.

2. Responsiveness to reduce flood risk.
    - Provide for timely and consistent routine operations and maintenance in the affected channels and associated storm water conveyance infrastructure.
3. Avoid, minimize, and/or mitigate potential effects to environmental resources.
    - Avoid, minimize, and/or mitigate significant adverse environmental effects resulting from routine maintenance of storm water facilities.
    - Incorporate and adapt to water quality management strategies intended to protect water quality and address flooding impacts.
4. Proactive and timely review and approval process.
    - Provide project-level analysis in advance at Program level to expedite subsequent authorizations for routine and preventive maintenance activities within storm water facilities.
    - Identify a review and approval process to include additional storm water facilities and maintenance activities that follow the protocols and requirements of the MWMP.
    - Reduce the need to conduct emergency maintenance during sudden and/or significant storm events by implementing preventive maintenance activities.

These objectives allow the City to be responsive to newly identified flood risks while also anticipating and advance preparing to meet the need for approvals for routine, preventive maintenance that reduces flood risks. Under City of San Diego (City) Charter Section 26.1 and Council Policy 800-04 (City of San Diego 2012), the City is responsible for maintaining

adequate drainage facilities to remove storm water runoff in an efficient, economic, and environmentally and aesthetically acceptable manner for the protection of property and life. Per this Council Policy the City generally accepts responsibility for maintenance of public drainage facilities that are designed and constructed to City standards and located within a public street or drainage easement dedicated to the City. This also includes facilities within City-owned or managed properties.

The City's storm water conveyance system serves to convey storm water flows to protect the life and property of its citizens from potential flooding within the City. The City's storm water conveyance system also serves to convey urban runoff from pervious and impervious surfaces and development, such as irrigated landscape areas, driveways, and streets that flow into drainage facilities and channels and ultimately to the ocean. Additionally, the City's storm water conveyance system helps to protect water quality and open facilities such as channels can support natural resources including wetland habitat. To maintain the system's effectiveness while balancing water quality objectives, the proposed MWMP identifies specific activities, methods, and procedures that will guide ongoing maintenance and repair of facilities. The MWMP provides a comprehensive approach to identify and regulate maintenance and repair activities, primarily within open storm water facilities (i.e., those facilities located above ground and not within closed systems, such as pipes).

Many storm water facilities were originally designed to require ongoing maintenance and repair. For example, concrete-lined trapezoidal channels are often designed to convey the 100-year storm event. However, if sediment accumulates in the channels, and vegetation establishes within the sediment, the conveyance capacity is often reduced, and adjacent developed properties are at greater risk of flooding, and the City becomes exposed to legal liability. In other cases,

storm water facilities damaged during large storm events require repair (e.g., replacement of broken concrete lining or dislodged riprap) to continue to provide safe storm water conveyance according to the original facility design. Finally, there are areas of the City where development or conditions have changed within the watershed, resulting in greater or faster storm water flows than predicted during the facility design, or the original design does not meet current standards. In these cases, a Capital Improvement Program (CIP) project is often needed to address the potential flood risk that exists or erosion potential due to a design that no longer meets the needs of the surrounding area; however, pending the finance, design, permitting and construction of a CIP project, maintenance (removal of accumulated vegetation and sediment) may alleviate the flood risk on an interim basis. Maintenance and repairs are an important component of operating the storm water conveyance system and providing reliable flood risk reduction throughout the City.

Furthermore, the MWMP includes specific EPs in the area of Health and Safety/Hazards that will minimize potential impacts related to exposure of workers, the public, and the environment to hazardous materials. Specifically, *EP-HAZ-1*, *EP-HAZ-2*, and *EP-HAZ-3* prescribe monitoring, handling, disposal, and reporting procedures for potentially contaminated materials that ensure implementation of the MWMP will not result in adverse effects to health or safety. Therefore, the MWMP will not be detrimental to the public health, safety, and welfare.

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

Vegetation management activity proposed by the MWMP such as clearing, grubbing, managing brush, or disturbing existing vegetation is defined as “development” by the Land Development Code, San Diego Municipal Code section 113.0103. However, the MWMP

proposes no new construction. The MWMP proposes the maintenance and repair of existing storm water facilities; specifically, open channels, detention basins, and drain structures that the City's Transportation & Storm Water Department has the responsibility to maintain and repair to provide flood control. Plan-wide activities include minor maintenance or repair; changed conditions for new or substantially amended FMPs; compensatory mitigation sites; and emergency maintenance or repair. Whereas in distinction project-level maintenance and repair activities (i.e., a site-specific FMP) include, but are not limited to, vegetation management; sediment removal; drain structural clearing (outlets and inlets); invasive plant species management; concrete repair and replacement; and bank repair.

The MWMP generally complies with the regulations set forth in the LDC; however, proposed activities could require the removal of wetland vegetation to restore or repair the facility's conveyance capacities or as-built condition. Since maintenance and repair activities within storm water drainage facilities may be located within ESL and likely impact wetlands, a deviation from the City's ESL Regulations will be required and is supported by this finding.

The MWMP is considered an essential public project as defined by ESL Regulations in San Diego Municipal Code Section 143.0150(d) because it will involve the maintenance of existing public infrastructure. Maintenance and repair activities of facilities located within the Coastal Zone will also be necessary to reduce flood risks, restore conveyance capacities, and repair damaged infrastructure. No feasible alternatives exist that will fully comply with ESL Regulations involving the negligible loss of wetland vegetation and still meet the project objectives.

Project-level MWMP activities that deviate from the ESL Regulations, such as an unavoidable impact to wetlands, will be mitigated through implementation of compensatory

wetland mitigation and restrictions on grading during the bird breeding season. Vegetation must be removed to prevent flooding and improve the overall intended functionality of these storm water facilities since vegetation diminishes the ability of the storm water facilities to safely convey floodwaters. Therefore, where wetland impacts are unavoidable (determined on a case-by-case basis), they will be minimized to the maximum extent practicable and mitigated per the City of San Diego Biology Guidelines (SDBG). In addition, significant indirect impacts to breeding birds protected by the City's ESL Regulations may occur if maintenance produces noise or other types of disturbance in proximity to active nests, potentially resulting in abandonment of nests or other breeding failure. Per LDC Section 143.0141(a)(2), grading during wildlife breeding season shall be consistent with the requirements of the MSCP Subarea Plan. Whenever possible, maintenance activities under the MWMP will be conducted outside of the breeding season for sensitive wildlife species. If maintenance is required to be conducted during the breeding season of sensitive wildlife, and suitable habitat is present within or adjacent to the facility segment planned for maintenance, required mitigation measures will be taken to reduce indirect noise impacts.

For activities that occur within the Coastal Zone, impacts are allowed for incidental public service projects, such as maintenance of storm water facilities. As an incidental public service project, the maintenance activities proposed comply with the SDBG where unavoidable impacts include those necessary to allow reasonable use of a parcel entirely constrained by wetlands; roads where the only access to the developable portion of the site results in impacts to wetlands, and essential public facilities where no feasible alternative exists. Furthermore, within the Coastal Zone impacts to wetlands shall be limited to only those uses identified in LDC

Section 143.0130(d) which include aquaculture facilities, nature study project or similar resource dependent uses, wetland restoration and incidental public service projects.

Therefore, the MWMP will comply with the regulations of the LDC including any allowable deviations pursuant to the LDC.

2. Supplemental Findings – Environmentally Sensitive Lands

a. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

While some vegetation management activity proposed by the MWMP is defined as development by the City's LDC, the MWMP proposes no new construction. MWMP maintenance activities occur on sites constructed with facilities that are part of the existing storm water conveyance system. Implementation of the MWMP will ensure that the design, siting, and operation of future storm water maintenance activities will minimize, to the extent possible, disturbance to ESL. On an annual basis, the City's Transportation & Storm Water Department prioritizes maintenance activities in specific channels that have the highest probability and safety consequence of flooding. The FMPs for the 66 facility groups provide the site-specific information that allows the minimum disturbance to ESL. The hydrology and hydraulic analyses contained in the EIR for these facilities specifically identified areas that could be avoided or do not need maintenance if there was no flood risk benefit (i.e., the level of service remains the same or there is no improvement to the level of service if maintenance is conducted). Furthermore, the MWMP includes specific EPs in the areas of Biological Resources, Geologic Conditions, Health and Safety/Hazards, Hydrology, Land Use (MSCP Land Use Adjacency Guidelines), Paleontological Resources, Solid Waste and Water Quality that will minimize adverse effects to ESL. The EIR also identifies specific mitigation measures related to Air

Quality and Odor, Biological Resources, Historical, Archaeological, and Tribal Cultural Resources, Noise and Water Quality that will further minimize impacts to ESL.

The MWMP also includes a review process for subsequent activities (i.e., Substantial Conformance Review), that will allow the regulatory agencies, including the City's Development Services Department, to review the maintenance plans and determine compliance with the associated permits and consistency with the MWMP and the EIR. The Substantial Conformance Review will ensure activities are suitable for the design and siting at each facility location; as well as hold the City accountable for implementing the permit conditions, EPs, and EIR mitigation measures to minimize potential impacts to ESL.

b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

While some vegetation management activity proposed by the MWMP is defined as development by the City's LDC, the MWMP proposes no new construction. The MWMP proposes maintenance and repair or reconstruction of storm water facilities to existing or as-built design to restore flood conveyance capacities and infrastructure function. The MWMP's primary objectives include: (1) Public safety and flood risk reduction; (2) Responsiveness to reduce flood risk; (3) Avoid, minimize, and/or mitigate potential effects to environmental resources; and (4) Proactive and timely approval process. These objectives balance the City's need to be responsive to identified flood risks while avoiding, minimizing or mitigating the effects that MWMP activities may have on the environment.

The MWMP includes specific EPs in the areas of Biological Resources, Geologic Conditions, Health and Safety/Hazards, Hydrology, Land Use (MSCP Program Land Use Adjacency Guidelines), Paleontological Resources, Solid Waste and Water Quality that will

minimize adverse effects to Environmentally Sensitive Lands. The EIR also identifies mitigation measures related to Air Quality and Odor, Biological Resources, Historical, Archaeological, and Tribal Cultural Resources, Noise and Water Quality. Implementation of these EPs and mitigation measures ensures the City will minimize any alterations to natural landforms and preclude impacts that will result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

Specifically, the City will prepare a geotechnical report in compliance with *EP-GEO-1* for maintenance/repair activities that involve earthen bank repair activities; prepare and submit a *Water Pollution Control Plan* (WPCP), consistent with *EP-WQ-1*, that outlines the best management practices (BMPs) and pollution prevention measures to be implemented prior to and during maintenance; and implement post-maintenance erosion control measures required by *EP-HYD-1* for facility segments in which velocities in the recommended maintenance condition are greater than the pre-maintenance condition and greater than recommended permissible velocities. City crews also take extra precautions during Santa Ana conditions and Red Flag warning days when operating any outdoor equipment to reduce the chance of creating a spark that could result in a wildfire. The City maintenance crews perform work with fire safety measures in compliance with Chapter 14 of the California Fire Code; additionally, gasoline-powered or diesel-powered machinery used during maintenance and repair activities will be equipped with standard exhaust controls and muffling devices that will also act as spark arrestors. Fire containment and extinguishing equipment will be located on site and will be accessible during maintenance and repair activities. Maintenance crews are trained to use fire suppression equipment and will not be permitted to idle vehicles at maintenance sites when not in use. The City also sends notifications during Santa Ana conditions and the high fire season to alert employees and work crews of the

potentially dangerous conditions, and to remind them to operate outdoor equipment properly to reduce the chance of creating a spark that could result in a wildfire. Furthermore, removal of vegetation (fire load) may also prevent fire hazards to residents and businesses adjacent to storm water facilities.

Therefore, the MWMP incorporates specific protocols and mitigation measures that will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

While some vegetation management activity proposed by the MWMP is defined as development by the City's LDC, the MWMP proposes no new construction. The MWMP proposes maintenance and repair of storm water facilities to existing or as-built design to restore flood conveyance capacities and infrastructure function. Similar to the siting and design finding above, implementation of the MWMP has ensured that maintenance and repair activities have been sited and designed to prevent adverse impacts on any adjacent ESLs to the extent possible. On an annual basis, the City's Transportation & Storm Water Department prioritizes maintenance activities in specific channels that have the highest probability and safety consequence of flooding. The FMPs for the 66 facility groups provide the site-specific information that allow the minimum disturbance to ESL and identify adjacent land uses. The hydrology and hydraulic analyses in the EIR for these facilities specifically identified areas that could be avoided or do not need maintenance if there was no flood risk benefit (i.e., the level of service remains the same or there is no improvement to the level of service if maintenance is conducted). Furthermore, the MWMP includes specific EPs in the areas of Biological Resources, Geologic Conditions, Health and Safety/Hazards, Hydrology, Land Use (MSCP Land Use

Adjacency Guidelines), Paleontological Resources, Solid Waste and Water Quality that will minimize adverse effects to ESLs. The EIR also identifies specific mitigation measures related to Air Quality and Odor, Biological Resources, Historical, Archaeological, and Tribal Cultural Resources, Noise and Water Quality that will further minimize impacts to ESL.

The MWMP also includes a review process for subsequent activities (i.e., Substantial Conformance Review), that will allow the regulatory agencies, including the City's Development Services Department, to review the maintenance plans and determine compliance with the associated permits and consistency with the MWMP and EIR. The Substantial Conformance Review will ensure activities are suitable for the design and siting at each facility location; as well as hold the City accountable for implementing the permit conditions, EPs and EIR mitigation measures to minimize and mitigate potential impacts to ESL. These requirements will prevent adverse impacts on any adjacent ESL.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan and Vernal Pool Habitat Conservation Plan (VPHCP).

Several MWMP facility segments are located within and adjacent to the MSCP Subarea Plan's Multi-Habitat Planning Area (MHPA). The EIR analyzed consistency with the MSCP Subarea Plan, including compliance with the MSCP Land Use Adjacency Guidelines. EIR Table 5.8-2, Project Consistency Determination with MSCP Land Use Considerations, documents compliance with the MSCP. There are no MWMP facilities mapped within vernal pool habitat and therefore consistency with the Vernal Pool Habitat Conservation Plan will not apply.

The MWMP proposes the maintenance and repair of essential public facilities (i.e., storm water conveyance systems and maintenance of existing public infrastructure as defined by the City's LDC section 143.0510(d)). Essential public utility infrastructure in the MHPA is a

conditionally compatible use within the MHPA, subject to siting and design policies that minimize impacts to sensitive biological resources, including avoidance of wetlands, unless infeasible. Storm water conveyance systems work with the flow of water and follow low points within their respective geographic landscapes. They are typically located within drainages or streambeds and can also be located within the MHPA or associated with core biological resource areas. Because of this association with watercourses, complete avoidance of wetlands is infeasible. Similarly, the MHPA includes canyon bottoms and upland areas, so avoidance of the MHPA is infeasible.

However, the EIR contains site-specific hydrology and hydraulic analyses for facilities where maintenance is anticipated. The hydrology and hydraulic analyses ensure that maintenance activities that impact wetlands and other biological resources within the MHPA are minimized to only those areas where a flood risk reduction or infrastructure maintenance or repair is necessary, and where biological impacts can be mitigated to below a level of significance. Although encroachment into the MHPA is proposed as part of the MWMP, the proposed maintenance activities are considered essential public facilities. Essential public facilities are conditionally compatible with the biological objectives of the MSCP Subarea Plan. Therefore, the MWMP will not conflict with the land use consideration of the MSCP Subarea Plan.

In addition, because there are MWMP facility maintenance areas that occur within and adjacent to the MHPA, compliance with the MSCP Land Use Adjacency Guidelines is required. The City is required to prepare maintenance plans and subsequent review documents that implement EP, *EP-LU-1,* to ensure compliance with the associated discretionary permit conditions, MWMP, and the MSCP's MHPA Land Use Adjacency Guidelines.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

The MWMP proposes no new construction. Storm water facility maintenance and repair will not contribute to erosion of public beaches or impact the supply of beach sand. Although maintenance often involves the removal of sediment that may be conveyed downstream to local beaches, the sediment is mainly comprised of silt and clay material rather than sand. Thus, the removal of sediment will not deprive local beaches of a sand source or adversely impact local shoreline sand supply.

f. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

Maintenance and repair activities authorized under the MWMP are required to comply with and implement specific EPs and mitigation measures (MMs) included in the EIR and accompanying Mitigation, Monitoring, and Report Program (MMRP). The EPs and MMs are specifically designed to avoid, minimize and alleviate negative impacts and provide adequate compensation for impacts resulting from storm water facility maintenance.

3. <u>Supplemental Findings--Environmentally Sensitive Lands Deviations</u>

a. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.

The MWMP proposes the maintenance and repair of essential public facilities (i.e., storm water conveyance systems and maintenance of existing public infrastructure as defined by the City's LDC section 143.0510(d)). Storm water conveyance systems work with the gravitational and hydraulic flow of water and follow low points within their respective geographic landscapes. They are typically located within drainages or streambeds mapped within Special Flood Hazard Areas (i.e., FEMA floodways) and can also be located within the MHPA or associated with core

biological resource areas. Because of this association with watercourses, complete avoidance of ESL, such as wetlands and FEMA floodways, are considered infeasible. To meet the project's objective to be responsive and reduce flood risk, accumulated vegetation, sediment, trash and debris must be removed within these storm water facilities to restore conveyance capacities to prevent flooding and to improve the overall intended functionality of the system. Where impacts to wetlands or wetland buffers cannot be avoided, a deviation to the City's Wetlands Regulations LDC Section 143.0141(b) is requested and supported by this finding. The City is also required to comply with the MWMP's EIR mitigation measure, MM-BIO-1a, which requires compensatory mitigation for significant impacts to wetlands consistent with the SDBG.

The EIR contains site-specific hydrology and hydraulic analyses for facilities where maintenance is anticipated. The hydrology and hydraulic analyses ensure that maintenance activities that impact wetlands and other biological resources within drainage areas are minimized to only those areas where a flood risk reduction or infrastructure maintenance or repair is necessary, and where biological impacts can be mitigated to below a level of significance. Furthermore, the MWMP includes specific EPs in the areas of Biological Resources, Geologic Conditions, Health and Safety/Hazards, Hydrology, Land Use (MSCP Land Use Adjacency Guidelines), Paleontological Resources, Solid Waste and Water Quality that will minimize adverse effects to ESL. The EIR also mandates implementation of specific mitigation measures related to Air Quality and Odor, Biological Resources, Historical, Archaeological, and Tribal Cultural Resources, Noise and Water Quality that will further minimize impacts to ESL

The MWMP EIR includes an alternatives analysis that compared the environmental effects of the proposed MWMP to five other alternatives. These project alternatives include: (1) No Project/No Action; (2) Reduced In-stream Maintenance; (3) Limited Sediment Removal;

(4) Alternative Sediment Management Approach, and (5) Reduced Project. A primary factor in the selection of alternatives must be the ability to reduce or substantially reduce one or more significant impacts that will result from a project. Significant impacts considered in the alternatives selection for the MWMP included: Air Quality and Odor; Biological Resources; Historical, Archaeological, and Tribal Cultural Resources; Noise; Solid Waste; and Water Quality. In addition, although no significant impacts were identified for Hydrology, it was also included in the consideration of alternatives because it is integral to the purpose and objectives of the MWMP. After evaluating each of these alternatives, no feasible alternatives exist that will fully comply with ESL Regulations involving the minimal loss of wetland vegetation and still meet the project objectives. Therefore, there are no other feasible measures that can further minimize the potential adverse effects on ESL, specifically wetland and wetland buffers that the MWMP is already required to comply with and implement.

b. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

Council Policy 800-04 states that the City generally only accepts responsibility for maintenance or repair of public drainage facilities that are designed and constructed to City standards and are located within a public street or drainage easement dedicated to the City. This also includes facilities within City-owned or managed properties. The MWMP is intended to only include storm water facilities, specifically open channels, detention basins, and drain structures that the City has the responsibility to maintain. In addition, Council Policy 700-44 encourages and establishes the responsibility for private property owners to implement flood control measures, such as the use of sandbags, to prevent and protect their property from flood damage. To meet the project's objective to be responsive and reduce flood risk; accumulated vegetation, sediment, trash and debris must be removed within these storm water facilities to

restore conveyance capacities to prevent flooding and to improve the overall intended functionality of the system. Deviations to the 100-foot buffer around all wetlands and to impact sensitive biological resources are requested and supported by this finding. The proposed deviations are unavoidable because storm water facilities by their very nature and function are located within wetlands and the removal of vegetation to clean and maintain their effective function could potentially impact sensitive biological and historical resources. The City is also required to comply with the MWMP's EIR mitigation measure, MM-BIO-1a, which requires compensatory mitigation for significant impacts to wetlands consistent with the SDBG.

The EIR contains site-specific hydrology and hydraulic analyses for facilities where maintenance is anticipated. The hydrology and hydraulic analyses ensure that maintenance activities that impact wetlands and other biological resources within drainage areas are minimized to only those areas where a flood risk reduction or infrastructure maintenance or repair is necessary, and where biological impacts can be mitigated to below a level of significance. Furthermore, the MWMP includes specific EPs in the areas of Biological Resources, Geologic Conditions, Health and Safety/Hazards, Hydrology, Land Use (MSCP Land Use Adjacency Guidelines), Paleontological Resources, Solid Waste and Water Quality that will minimize adverse effects to ESL. The EIR also mandates implementation of specific mitigation measures related to Air Quality and Odor, Biological Resources, Historical, Archaeological, and Tribal Cultural Resources, Noise and Water Quality that will further minimize impacts to ESL.

The MWMP also includes a review process for subsequent activities (i.e., Substantial Conformance Review), that will allow the regulatory agencies, including the City's Development Services Department, to review the maintenance plans and determine compliance with the associated permits and consistency with the MWMP and EIR. The Substantial Conformance

Review will ensure activities are the minimum necessary to afford relief from special circumstances or conditions of the land, as well as hold the City accountable for implementing the permit conditions, EPs and EIR mitigation measures to minimize potential impacts to ESL. Therefore, the proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the City's making.

B. COASTAL DEVELOPMENT PERMIT- SAN DIEGO MUNICIPAL CODE(SDMC) SECTION 126.0708

1. Findings for all Coastal Development Permits:

a. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public access way identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

Both project-level and program-level maintenance and repair activities under the MWMP can occur in facilities located within the Coastal Zone. Project-level maintenance and repair activities can include vegetation management; sediment removal; drain structural clearing (outlets and inlets); invasive plant species management; concrete repair and replacement; and bank repair. Plan-level activities include minor maintenance or repair; changed conditions for new or substantially amended FMPs; compensatory mitigation sites; and emergency maintenance or repair. For the facility groups located within the Coastal Zone where project-level maintenance and repair is anticipated (i.e., FMPs), these occur within seven adopted Local Coastal Program (LCP) land use plans (La Jolla, Otay Mesa-Nestor, Pacific Beach, Peninsula, San Ysidro, Tijuana River Valley and Torrey Pines).

The MWMP's EIR Table 5.1-1, Community Plans and Identified Vistas, Scenic Views, and Public Vantage Points, assesses scenic resources and views identified in the community plans, including LCP land use plans, except for the Tijuana River Valley community plan/LCP.

This plan only identifies steep hillsides as visual resources, and no MWMP facilities are not located within the viewing distance of identified/designated public vantage points.

During maintenance and repair activities, mechanized equipment and vehicles could be used in or adjacent to MWMP facilities that may temporarily block or obstruct views from vistas or public vantage point identified in a community plan or LCP. Equipment and vehicles, including cranes, excavators, hydraulic dredgers, and dump trucks, may be used during MWMP maintenance and repair, and could be visible from public vantage points near facilities.

MWMP facilities, including channels and ditches, basins, and drainage structures, are occasionally located near public vistas, vantage points, or view sensitive areas identified as such in a LCP land use plan. However, the temporary presence of construction equipment and vehicles in public views will not constitute a particularly substantial view obstruction. Repair activities such as concrete repair may take a few days or several weeks to be completed, and temporary stockpiling may last from several days to several months. Once maintenance and repair activities are completed, equipment and vehicles will not be present in public views. Proposed activities will be temporary, and equipment, vehicles, and storage of equipment and materials will be experienced by viewers over a short-term duration.

In addition to the potential view effects described above for MWMP activities, the storage of equipment within a City right-of-way or existing trails/access ways may also occur during typical maintenance and repair activities. However, this construction practice routinely occurs throughout the City and is a visual occurrence expected to be familiar to pedestrians, cyclists, and motorists. Further, the temporary presence of equipment alongside roads and other rights-of-way will not constitute a long-term view obstruction. Lastly, implementation of the

MWMP and the ongoing maintenance of existing channels, ditches, basins, and other MWMP facilities will not conflict with applicable zoning or other regulations regarding scenic quality.

Therefore, MWMP activities that could encroach upon any existing physical access path that is legally used by the public or any proposed public access way identified in a LCP land use plan will not substantially interrupt or obstruct any scenic vista, view, or public vantage point. In addition, since maintenance and repair activities will occur in existing storm water facilities and be temporary in nature, subsequent projects will not likely enhance or protect public views to and along the ocean and other scenic coastal areas as specified in the LCP land use plan.

b. The proposed coastal development will not adversely affect environmentally sensitive lands.

Implementation of the MWMP will ensure that the design and siting of future storm water maintenance activities within the Coastal Zone will not adversely affect ESL. The hydrology and hydraulic analyses for the14 channel/ditch facility groups and one basin facility group located in the Coastal Zone specifically identified areas that could be avoided or do not need maintenance if there was no flood risk benefit (i.e., the level of service remains the same or there is no improvement to the level of service if maintenance is conducted). Furthermore, the MWMP includes specific EPs in the areas of Biological Resources, Geologic Conditions, Health and Safety/Hazards, Hydrology, Land Use (MSCP Land Use Adjacency Guidelines), Paleontological Resources, Solid Waste and Water Quality that will minimize adverse effects to ESL. The associated EIR also identifies specific mitigation measures related to Air Quality and Odor, Biological Resources, Historical, Archaeological, and Tribal Cultural Resources, Noise and Water Quality that will further minimize impacts to ESL.

The MWMP also includes a review process for subsequent activities (i.e., Substantial Conformance Review), that will allow the regulatory agencies, including the City's Development

Services Department, to review the maintenance plans and determine compliance with the associated permits and consistency with the MWMP and EIR. The Substantial Conformance Review will ensure activities are suitable for the design and siting at each facility location; as well as hold the City accountable for implementing the permit conditions, EPs and EIR mitigation measures to minimize potential impacts to ESL.

c. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The maintenance and repair activities associated with the MWMP will conform to the applicable Local Coastal Program (LCP) land use plans and generally comply with the certified Implementation Program (i.e., LDC). However, proposed maintenance activities could require the removal of wetland vegetation to restore or repair the facility's conveyance capacities or as-built condition. Since maintenance and repair activities within storm water drainage facilities will be located within ESL and likely impact wetlands, a deviation from the City's ESL Regulations are requested and supported by this finding. The City is also required to comply with the MWMP's EIR mitigation measure, MM-BIO-1a, which requires compensatory mitigation for significant impacts to wetlands consistent with the SDBG. As analyzed in EIR Table 5.8-1, General, Community, and Park Plan Policy Evaluation, the General Plan and several LCP land use plans identify conservation and public facility policies that are related to flood control; maintaining natural drainages; minimize disturbance to open spaces areas and avoiding the loss of wetlands; and protecting water quality.

The MWMP is considered an essential public project as defined by ESL Regulations Section 143.0150(d) because it will involve the maintenance of existing public infrastructure. Maintenance and repair activities within facilities located within the Coastal Zone will also be

economically necessary to reduce flood risks, restore conveyance capacities, and repair damaged infrastructure. No feasible alternatives exist that will fully comply with ESL Regulations involving the minimal loss of wetland vegetation and still meet the project objectives.

For activities that occur within the Coastal Zone, impacts are allowed for incidental public service projects, such as maintenance of storm water facilities. As an incidental public service project, the maintenance activities proposed comply with the SDBG where unavoidable impacts include those necessary to allow reasonable use of a parcel entirely constrained by wetlands; roads where the only access to the developable portion of the site results in impacts to wetlands; and essential public facilities where no feasible alternative exists. Furthermore, within the Coastal Zone, impacts to wetlands shall be limited to only those uses identified in Section 143.0130(d) for the ESL which is limited to aquaculture facilities, nature study projects or similar resource dependent uses, wetland restoration and incidental public service projects.

d. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Zone, the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

Although there are no MWMP project-level facilities (i.e., FMPs) located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Zone; program-level activities (e.g., minor maintenance and repair, emergency maintenance and repair) could occur in such areas. However, any work performed in these areas that will encroach into a public access path, such as a designated trail or right-of-way, will be considered temporary and typically conducted during a relatively short time-frame (one day to several weeks). As such, any work performed will not likely have an effect upon public access and the recreation policies of Chapter 3 of the California Coastal Act and is in conformance with such Act.

2. Supplemental Findings – Environmentally Sensitive Lands Supplemental Findings – Deviations to Environmentally Sensitive Lands Within the Coastal Overlay Zone

a. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use provided for in the Environmentally Sensitive Lands Regulations will not provide any economically viable use of the applicant's property.

Council Policy 800-04 states that the City generally only accepts responsibility for maintenance or repair of public drainage facilities that are designed and constructed to City standards and are located within a public street or drainage easement dedicated to the City. Many properties located in the City discharge directly or indirectly to the City's system. The MWMP is intended to only include storm water facilities, specifically open channels, detention basins, and drain structures that the City has the responsibility to maintain. This also includes facilities within City-owned or managed properties. In addition, Council Policy 700-44 encourages and establishes the responsibility for private property owners to implement flood control measures, such as the use of sandbags, to prevent and protect their property from flood damage. To meet the project's objective to be responsive and reduce flood risk, accumulated vegetation, sediment, trash and debris must be removed within these storm water facilities to restore conveyance capacities to prevent flooding and to improve the overall intended functionality of the system. Deviations to the 100-foot buffer around all wetlands and to impact sensitive biological resources are requested and supported by this finding. The proposed deviations are unavoidable because storm water facilities by their very nature and function are located within wetlands and the removal of vegetation to clean and maintain them could potentially impact sensitive biological resources. The City is also required to comply with EIR mitigation measure, MM-BIO-1a, which requires compensatory mitigation for significant impacts to wetlands consistent with the SDBG.

While storm water facilities are permitted as incidental public services projects, the City will be denied the only economically viable use of property as a drainage easement or infrastructure whose purpose is to convey storm water runoff and protect life and property. Therefore, the City's only economically viable use of the property is to use the facility for storm water conveyance due to current easements restricting the use and the presence within wetland areas.

b. Application of the Environmentally Sensitive Lands Regulations will interfere with the applicant's reasonable investment-backed expectations.

Under City of San Diego (City) Charter Section 26.1 and Council Policy 800-04, the City is responsible for maintaining adequate drainage facilities to remove storm water runoff in an efficient, economic, and environmentally and aesthetically acceptable manner for the protection of property and life. The strict application of the ESL Regulations will not allow the City to maintain or repair any existing storm water facilities where work will impact sensitive biological resources, such as wetlands. The City has invested time and money to plan, acquire, design, construct, and maintain/repair storm water facilities to adequately carry storm water runoff downstream and reduce flood risks to private and public properties and persons. Strict application of the ESL will require the City to avoid all wetlands and wetland buffers, prohibiting maintenance within drainages where wetlands and wetland buffers are identified. This will interfere with the public's expectation and in some cases legal entitlement for the City to maintain and repair its storm water infrastructure in a manner that protects life and property. The City's economic expectations in owning drainage easements or infrastructure are based on being able to use the facilities to provide essential public drainage for protection of common health and welfare. Strict application of the ESL regulations will interfere with this reasonable investment backed expectation.

c. The use proposed by the applicant is consistent with the applicable zoning.

The MWMP includes Plan-wide and project-level FMP activities that are located throughout the City of San Diego. These facilities are located within portions of the Coastal, Open Space, Agricultural, Residential, Commercial and Industrial zones. Incidental public service projects, such as storm water facilities, are permitted uses in all zones and therefore the proposed use by the City is consistent with the applicable zoning.

d. The use and project design, siting, and size are the minimum necessary to provide the applicant with an economically viable use of the premises.

Implementation of the MWMP will ensure that the design and siting of future storm water maintenance activities are the minimum necessary to provide the City with an economically viable use as a storm water facility. On an annual basis, the City's Transportation & Storm Water Department prioritizes maintenance activities in specific channels that have the highest probability and consequence of flooding. The FMPs for the 66 facility groups provide the site-specific information that allow the minimum disturbance to ESL. The hydrology and hydraulic analyses for these facilities specifically identified areas that could be avoided or do not need maintenance if there was no flood risk benefit (i.e., the level of service remains the same or there is no improvement to the level of service if maintenance is conducted). Furthermore, the MWMP includes specific EPs in the areas of Biological Resources, Geologic Conditions, Health and Safety/Hazards, Hydrology, Land Use (MSCP Program Land Use Adjacency Guidelines), Paleontological Resources, Solid Waste and Water Quality that will minimize adverse effects to ESL. The EIR also identifies specific mitigation measures related to Air Quality and Odor, Biological Resources, Historical, Archaeological, and Tribal Cultural Resources, Noise and Water Quality that will further minimize impacts to ESL.

The MWMP also includes a review process for subsequent activities (i.e., Substantial Conformance Review), that will allow the regulatory agencies, including the City's Development Services Department, to review the maintenance plans and determine compliance with the associated permits and consistency with the MWMP and EIR. The Substantial Conformance Review will ensure activities are suitable for the design and siting at each facility location, as well as hold the City accountable for implementing the permit conditions, EPs and EIR provided mitigation measures to minimize potential impacts to ESL.

The long-term performance and economic viability of these storm water facilities is dependent upon ongoing and proper maintenance.

e. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified Local Coastal Program with the exception of the provision for which the deviation is requested.

The MWMP proposes the maintenance and repair of essential public facilities (i.e., storm water conveyance systems and maintenance of existing public infrastructure as defined by the City's LDC Section 143.0510(d)). Storm water conveyance systems work with the gravitational and hydraulic flow of water and follow low points within their respective geographic landscapes. They are typically located within drainages or streambeds mapped within Special Flood Hazard Areas (i.e., FEMA floodways) and can also be located within the MHPA or associated with core biological resource areas. Because of this association with watercourses, complete avoidance of ESL, such as wetlands and FEMA floodways, are considered infeasible. To meet the MWMP's objective to be responsive and reduce flood risk to properties and persons, accumulated vegetation, sediment, trash and debris must be sufficiently removed within these storm water facilities to restore conveyance capacities to prevent flooding and to improve the overall intended functionality of the system. Where impacts to wetlands or wetland buffers cannot be

avoided, a deviation to the City's Wetlands Regulations LDC Section 143.0141(b) is requested and supported by this finding.

The City has prepared site-specific hydrology and hydraulic analyses for facilities where maintenance is anticipated. The hydrology and hydraulic analyses ensure that maintenance activities that impact wetlands and other biological resources within drainage areas are minimized to only those areas where a flood risk reduction or infrastructure maintenance or repair is necessary, and where biological impacts can be mitigated to below a level of significance. Furthermore, the MWMP includes specific EPs in the areas of Biological Resources, Geologic Conditions, Health and Safety/Hazards, Hydrology, Land Use (MSCP Land Use Adjacency Guidelines), Paleontological Resources, Solid Waste and Water Quality that will minimize adverse effects to ESL. The EIR also identifies specific mitigation measures related to Air Quality and Odor, Biological Resources, Historical, Archaeological, and Tribal Cultural Resources, Noise and Water Quality that will further minimize impacts to ESL.

The MWMP EIR includes an alternatives analysis that compared the environmental effects of the proposed MWMP to five other alternatives. These project alternatives include: (1) No Project/No Action; (2) Reduced In-stream Maintenance; (3) Limited Sediment Removal; (4) Alternative Sediment Management Approach, and (5) Reduced Project. A primary factor in the selection of alternatives must be the ability to reduce or substantially reduce one or more significant impacts that will result from a project. Significant impacts considered in the alternatives selection for the MWMP included: Air Quality and Odor; Biological Resources; Historical, Archaeological, and Tribal Cultural Resources; Noise; Solid Waste; and Water Quality. Although no significant impacts were identified for Hydrology, it was also included in the consideration of alternatives because it is integral to the purpose and objectives of the

MWMP. After evaluating each of these alternatives, the Reduced Project will be the environmentally superior alternative; however, impacts associated with hydrology and water quality will have some increases under this alternative compared to the proposed MWMP. By avoiding maintenance within the identified four facility groups, this alternative will increase the flood risk in areas surrounding these facilities. Life and property will be at risk in these locations during flood events, and the potential for water quality degradation will be increased when flood waters exceed the channel capacity and potentially transport pollutants downstream. Therefore, this alternative will not fully achieve the objectives of the MWMP, which are aimed to reduce flooding and protect life and property. Furthermore, no feasible alternatives exist that will fully comply with ESL Regulations involving the minimal loss of wetland vegetation and still meet the project objectives.

Therefore, the MWMP will still be the least environmentally damaging alternative and is consistent with all provisions of the certified Local Coastal Program with the exception for the deviations to the City's Wetlands Regulations.

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

Section 2. That based on the findings hereinbefore adopted by the Council of the City of San Diego, Site Development Permit No. 2392210 and Coastal Development Permit No. 2392208 are granted to the City of San Diego Transportation & Storm Water Department, Owner/Permittee, under the terms and conditions set forth in that permit, which is reference is made as part of this ordinance, which permit amends and supersedes SDP No. 2392210.

Section 3. That pursuant to the provisions of San Diego Municipal Code sections 126.0112, and 112.0503 which provide procedures for Substantial Conformance Review

decisions, Substantial Conformance Review for Project (FMP) level decisions for MWMP projects in the Coastal Zone which are subject to Coastal Development Permit No. 2392208, and decisions for MWMP Plan level programmatic activities including amendments to the MWMP and material changes to FMPs, compensatory mitigation sites, or for permits following emergency projects, shall be made in accordance with Process Two, except that notwithstanding section 112.0504(a),they shall be appealable directly to the City Council rather than to the Planning Commission first. For Project (FMP) level decisions for MWMP projects located entirely outside the Coastal Zone, the Substantial Conformance Review procedures shall be Process One as provided in San Diego Municipal Code section112.0502.

Section 4. That, notwithstanding the provisions of San Diego Municipal Code section 112.0504(a), which provides for a Planning Commission hearing and recommendation prior to certain City Council actions, no Planning Commission hearing and recommendation is required related to the future actions being authorized pursuant to this ordinance.

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

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By _____
Frederick M. Ortlieb
Deputy City Attorney

FMO:als
04/07/2020
Or.Dept: Storm Water Dept.
Doc. No.: 2360727_2

Attachments:

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

INTERNAL ORDER NUMBER: 11003765 SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 2392208
SITE DEVELOPMENT PERMIT NO. 23922101
MUNICIPAL WATERWAYS MAINTENANCE PLAN
PROJECT No. 616992 (MMRP)
CITY COUNCIL

This Coastal Development Permit No. 2392208 and Site Development Permit No. 23922101 is granted by the City Council of the City of San Diego to the City of San Diego Transportation and Storm Water Department, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0501 and 126.0701. The Municipal Waterways Maintenance Plan (MWMP) addresses the various methods for maintenance and repair of public drainage facilities throughout the City where potential local, state, and federally regulated resources may be impacted. This programmatic City-wide approach provides the operational flexibility to be responsive to newly identified flood risks while also streamlining approvals for routine, preventive maintenance at existing facilities located throughout the City of San Diego.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to manage the regular maintenance and repair of existing MS4 facilities owned or operated by the City and subject to the MWMP (March 2020) and Final Environmental Impact Report Project No. 616992/SCH No. 2017071022; [Exhibit "A"] dated _____on file in the Development Services Department.

This permit authorizes the City of San Diego Transportation & Storm Water Department:

a. Project-level maintenance or repair activities within an approved site-specific MWMP Facility Maintenance Plan (FMP);

b. Emergency maintenance or repair activities limited to City facilities to allow the minimum activity necessary to alleviate the threat to life or property;

c. Program-level analysis to identify additional MWMP activities not captured under a site-specific FMP;

d. Development of new or substantially amended FMPs to incorporate additional facilities or activities;

e. Approval of compensatory habitat mitigation areas for proposed facilities analyzed at the project level without an approved FMP.

f. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for the storm water facilities in accordance with the adopted community plans, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within ten years for projects outside the Coastal Overlay Zone or utilized within six years for projects inside the Coastal Overlay Zone, after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the ten-year or six-year period. Respectively, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action or following all appeals.

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

a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and

b. The Permit is recorded in the Office of the San Diego County Recorder.

4. While this Permit is in effect, the subject shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

ENVIRONMENTAL PROTOCOLS/MITIGATION REQUIREMENTS:

10. Environmental Protocols [EP] and Mitigation Measures (MMs) identified in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These EP/MMRP conditions are hereby incorporated into this Permit by reference.

11. The EPs and MMs specified in the MMRP and outlined in **"ENVIRONMENTAL IMPACT REPORT"** No. 616992/SCH NO. 2017071022, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

12. The Owner/Permittee shall comply with the MMRP as specified in "ENVIRONMENTAL IMPACT REPORT" NO. 616992/SCH NO. 2017071022, to the satisfaction of the Development Services Department and the City Engineer. Prior to the issuance of the "Notice to Proceed" with construction, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. The MMRP also includes a Mitigation Framework for covered maintenance activities and subsequent project-level and program-level activities that are consistent with the MWMP through a Substantial Conformance Review Process (SCR). All EPs and mitigation measures, as specifically outlined in the MMRP shall be implemented for the following issue areas:

Environmental Protocols: Biological Resources; Geologic Conditions; Health and Safety Hazards; Hydrology; Land Use; Paleontological Resources; Solid Waste; and Water Quality

Mitigation Measures: Air Quality and Odor; Biological Resources; Historical, Archaeological, and Tribal Cultural Resources; Noise; and Water Quality

Mitigation Framework for Program-Level Activities and Subsequent SCR Processing: Aesthetics/Visual Effects and Neighborhood Character; Air Quality and Odor; Biological Resources; Geologic Conditions; Greenhouse Gas Emissions; Health and Safety Hazards; Historical, Archaeological, and Tribal Cultural Resources; Hydrology; Land Use; Noise; Paleontological Resources; Solid Waste; and Water Quality

CLIMATE ACTION PLAN REQUIREMENTS:

13. Owner/Permittee shall implement Environmental Protocols (EPs) EP-SW-1 through EP-SW-8 related to Solid Waste, to ensure that waste transferred to a landfill as a result of MWMP project-and program-level activities is diverted to the maximum extent feasible as specified in the MWMP (Exhibit ?) and Final EIR No. 616992/SCH No. 2017071022, to the satisfaction of the Development Services Department and the City Engineer to assure compliance with the Climate Action Plan (CAP) . Prior to issuance of any "Notice to Proceed" with construction, the applicable EPs as outlined in the MMRP (Exhibit A) shall be enforced and implemented to the satisfaction of the Development Services Department.

MULTIPLE SPECIES CONSERVATION PROGRAM:

14. The Owner/Permittee shall implement Environmental Protocols (EPs) EP-LU-1 and EP-LU-2 (when applicable for mitigation site protection mechanism) as specified in Final EIR "ENVIRONMENTAL IMPACT REPORT" No. 616992/SCH No. 2017071022, to the satisfaction of the Development Services Department and the City Engineer to assure compliance with the City's Multiple Species Conservation Program (MSCP) Subarea Plan and Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines. Prior to the issuance of the "Notice to Proceed" with construction, all EPs as outlined in the Mitigation Monitoring and Reporting Program (Exhibit A) shall be noted on the first three (3) sheets of the construction plans under the heading "MSCP Requirements" and shall be enforced and implemented to the satisfaction of the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

15. MWMP facilities entirely within the City's jurisdiction (i.e. Appeal and Non-appealable Area 1 and 2) will be permitted under this CDP.

16. Facilities that have split jurisdiction will be permitted as follows:
    a. If a facility is split between a City (appealable) and Coastal Commission jurisdiction, the facility will be permitted under a Coastal Commission CDP.
    b. If a facility is split between a City (non-appealable) and Coastal Commission jurisdiction, the facility will be permitted under a Coastal Commission CDP.

17. If the split jurisdiction identifies only the access/staging in the Coastal Commission's jurisdiction and the facility itself is located within City's jurisdiction (appealable and/or non-appealable), the facility will be permitted under this CDP; and the entire facility (even if in non-appealable) is appealable to Coastal Commission.

18. All facilities located within the Tijuana River Valley Community Plan/Local Coastal Program are Appealable to Coastal Commission; and, therefore can be permitted under this CDP.

19. In the event this CDP approval gets appealed to Coastal Commission, only those facilities that are appealable will/can be heard by Coastal Commission.

20. Subsequent activities outside the Coastal Overlay Zone that are analyzed at the project level shall be authorized through Substantial Conformance Review Process One via Ordinance No. _____.

21. Subsequent activities located inside the Coastal Overlay Zone (appealable and non-appealable) that are analyzed at the project level shall be authorized through Substantial Conformance Review Process Two, appealable to City Council, via Ordinance No. _____.

22. An amendment to this permit for subsequent program-level activities that are consistent with the approved Municipal Waterways Maintenance Plan and certified Environmental Impact Report shall be authorized through a Substantial Conformance Review Process Two, appealable to the City Council via Ordinance No. _____.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

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

Permit Type/PTS Approval No.: XX
Date of Approval: XX

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

_____
Catherine Rom
Development Project Manager

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

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

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

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