



THE CITY OF SAN DIEGO

Report to the Hearing Officer

DATE ISSUED: August 29, 2018 REPORT NO. HO-18-078

HEARING DATE: September 5, 2018

SUBJECT: Sorrento Valley Road Maintenance - Process Three Decision

PROJECT NUMBER: [220243](#)

REFERENCE: [PTS 320787 Modifications to the Master Storm Water Maintenance System Maintenance Program Ordinance O-20291 \(August 28, 2013\).](#)

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

SUMMARY

Issue(s): Should the Hearing Officer approve after-the-fact approvals for emergency storm water channel maintenance within Torrey Pines Community Planning area?

Staff Recommendation(s):

1. Approve Coastal Development Permit No. 857042;
2. Approve Substantial Conformance Review No. 2178971.

Community Planning Group Recommendation: The Torrey Pines Community Planning Group declined a recommendation vote of the project since it was for emergency maintenance.

Environmental Review: This activity has been reviewed for consistency under the Program EIR prepared for the Master Storm Water System Maintenance Program (Project No. 42891/SCH No. 2004101032, October 4, 2011) certified and adopted by City Council Resolution No. R-307067 on October 24, 2011 and associated Amendment Addendum No. 528126 dated August 4, 2017 adopted by City Council Resolution R-311548 on February 13, 2018. This activity is part of a series of subsequent discretionary actions, and therefore not considered to be a separate project for purposes of California Environmental Quality Act (CEQA) review as defined in State CEQA Guidelines Section §15378(c). Pursuant to Section

21166 of CEQA, there is no change in circumstance, additional information or project changes to warrant additional environmental review for this action.

BACKGROUND

The City of San Diego's storm water system is designed to convey drainage flows primarily associated with urban runoff and rain events to protect life and property from potential flooding. Storm water facilities include, but are not limited to, a network of underground storm drain pipes, culverts, outfalls/inlets, detention basins, and open flood control channels. As in the case with open channels, these facilities can support natural resources, such as wetlands, which are highly regulated by various federal, state and local agencies. The Transportation & Storm Water Department (T&SWD) developed a program known as the Master Storm Water System Maintenance Program (MMP) in an effort to perform maintenance of storm water facilities while responding to these agencies' permitting and environmental requirements. The MMP allows for a comprehensive annual approach to the maintenance of existing storm water facilities by balancing the need to restore conveyance capacity and the ability to implement strategies to protect environmental resources such as water quality and biological resources.

In 2011, the City adopted the MMP with the approval of Site Development Permit (SDP) No. 714233/Coastal Development Permit (CDP) No. 714232 and certification of Program Environmental Impact Report (PEIR) No. 42891/SCH No. 2004101032. The MMP includes a series of maintenance protocols designed to minimize adverse effects of storm water facility maintenance on biological, historical and water resources. The PEIR evaluated the potential environmental impacts of implementing the MMP and identified appropriate mitigation measures to reduce or avoid impacts. The MMP also incorporates the applicable mitigation measures identified in the Mitigation Monitoring and Reporting Program (MMRP) associated with the PEIR prepared for the MMP.

SDP No. 714233/CDP No. 714232 was amended and superseded by SDP No. 1134892, which in turn was amended by SDP No. 2034245 to include additional locations and make technical corrections. SDP No. 2034245 is the current permit authorizing the MMP. The Sorrento Valley Road emergency, which entailed maintaining Industrial Court and Tripp Court flood control facilities, have been covered by the MMP scope since the initial permit, SDP No. 714233/CDP No. 714232.

PEIR No. 42891/SCH No. 2004101032, certified October 4, 2011, has remained unchanged.

The MMP provides for a Substantial Conformance Review (SCR) (which is a modified Process Two, (Development Services Approval-appealable directly to Council)) to ensure that the maintenance protocols and MMRP mitigation measures are implemented during maintenance activities. Individual assessments addressing biological resources, historical resources, hydrologic and hydraulic resources, water quality and noise are prepared for each maintenance activity, which are then evaluated as part of the SCR.

On September 14, 2010, T&SWD held a pre-construction meeting and initiated emergency maintenance for the two storm water flood control facilities adjacent to Sorrento Valley Road on September 15, 2010 at Tripp Court and Industrial Court, respectively referred to as Map 6 and Map 6a, in the MMP. The work was performed pursuant to Emergency CDP (Permit No. 784126), under PTS No. 220243, and a Notice of Exemption (NOE), pursuant to the California Environmental Quality Act (CEQA) Guidelines §15269-Emergency Projects. T&SWD also contacted state and federal agencies and acquired the applicable permits needed for the emergency work.

On May 13, 2011, T&SWD applied for after-the-fact SCR and CDP for this emergency maintenance (Attachment 3).

DISCUSSION

This after-the-fact CDP and SCR is for the emergency maintenance which occurred September 2010, in the above-mentioned channels. The emergency maintenance removed accumulated sediment, trash/debris, and vegetation within the following two concrete-lined drainage facilities: (1) an existing 900-foot concrete-lined portion of an 1,804-foot long storm drain facility (Tripp) and (2) an existing 690-foot concrete-lined storm drain facility (Industrial). The Tripp Court and Industrial Court facilities are also respectively referred to as Maps 6 and 6a of the MMP.

The MMP allows the SCR process to be used for “after-the-fact” permits issued for emergency maintenance in which the mitigation measures identified in the PEIR and amended SDP will be applicable to the emergency maintenance activities. The Individual Maintenance Plans, biological, historical, hydrologic and hydraulic water quality and noise assessments for the Industrial Court and Tripp Court emergency maintenance have been reviewed and determined to be consistent with the MMP, the PEIR certified October 4, 2011, and SDP No. 2034245.

CONCLUSION

The approval being requested today is for an after-the-fact CDP and SCR for the emergency maintenance of the channels discussed in this report. A portion of the project is located within the Coastal appealable and non-appealable zones and was not included in the CDP No. A-6-NOC-11-086 that was issued by CCC on November 15, 2012. The SCR is a modified Process Two (staff level) decision which has been consolidated with the CDP (Process Three) pursuant to SDMC 112.0103. City staff recommends approval of the CDP and SCR as it conforms to the MMP and the Land Development Code.

ALTERNATIVES

1. Approve Coastal Development Permit No. 857042 and Substantial Conformance Review No. 2178971), with modifications.
2. Deny Coastal Development Permit No. 857042 and Substantial Conformance Review No. 2178971, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Helene Deisher, Development Project Manager

Attachments:

1. Project Location Map with Aerial
2. Community Plan Land Use Map
3. Site Photos
4. Draft Resolution with Findings
5. Draft Permit with Conditions



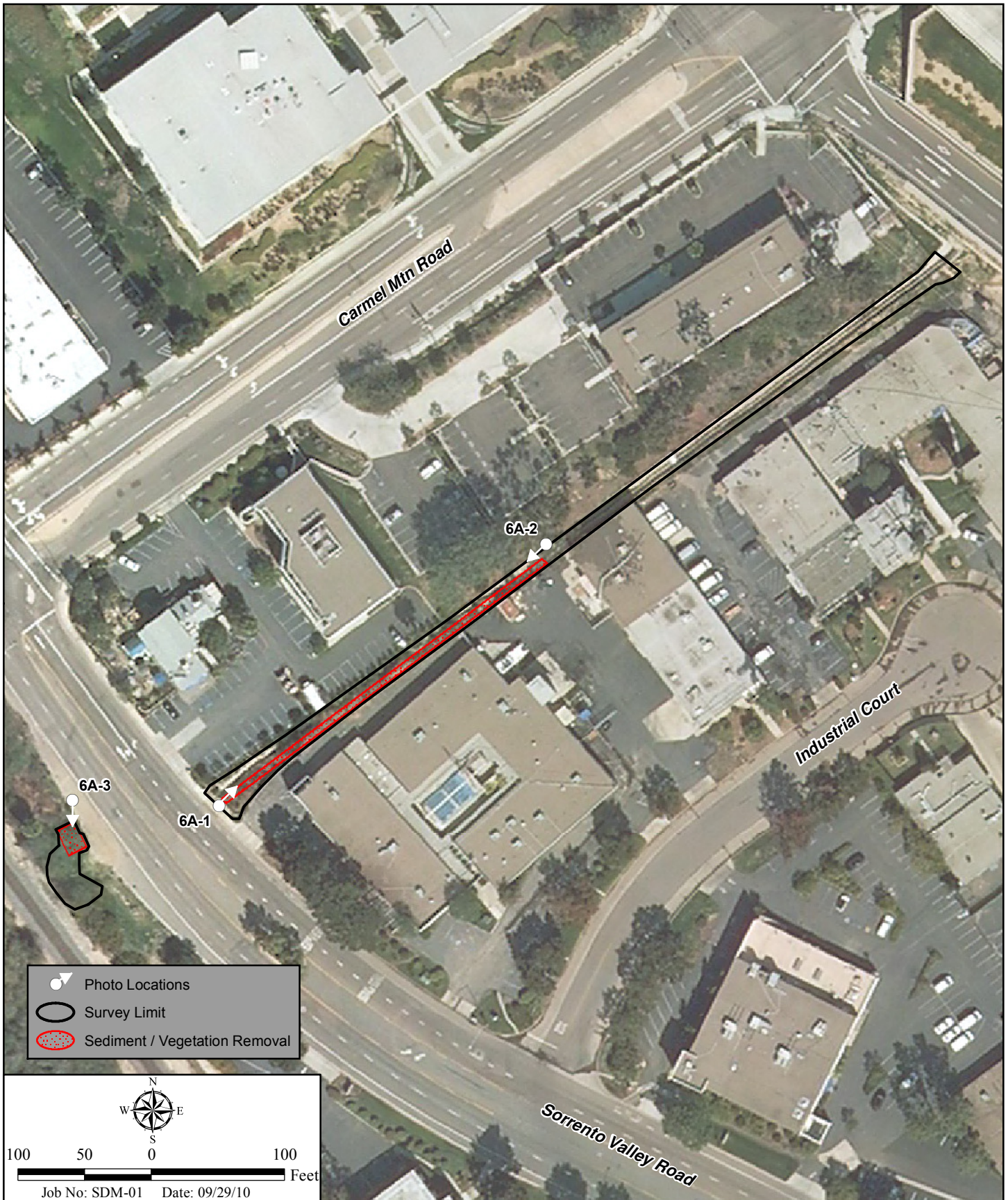
E:\ArcGIS\SDM-01 StormDrainMaintenance\Map\BIO\Letter\2010\Fig3_Map6_Aerial.mxd -KF

Aerial Photograph - Map 6

CITY OF SAN DIEGO ROUTINE MAINTENANCE OF STORM WATER FACILITIES



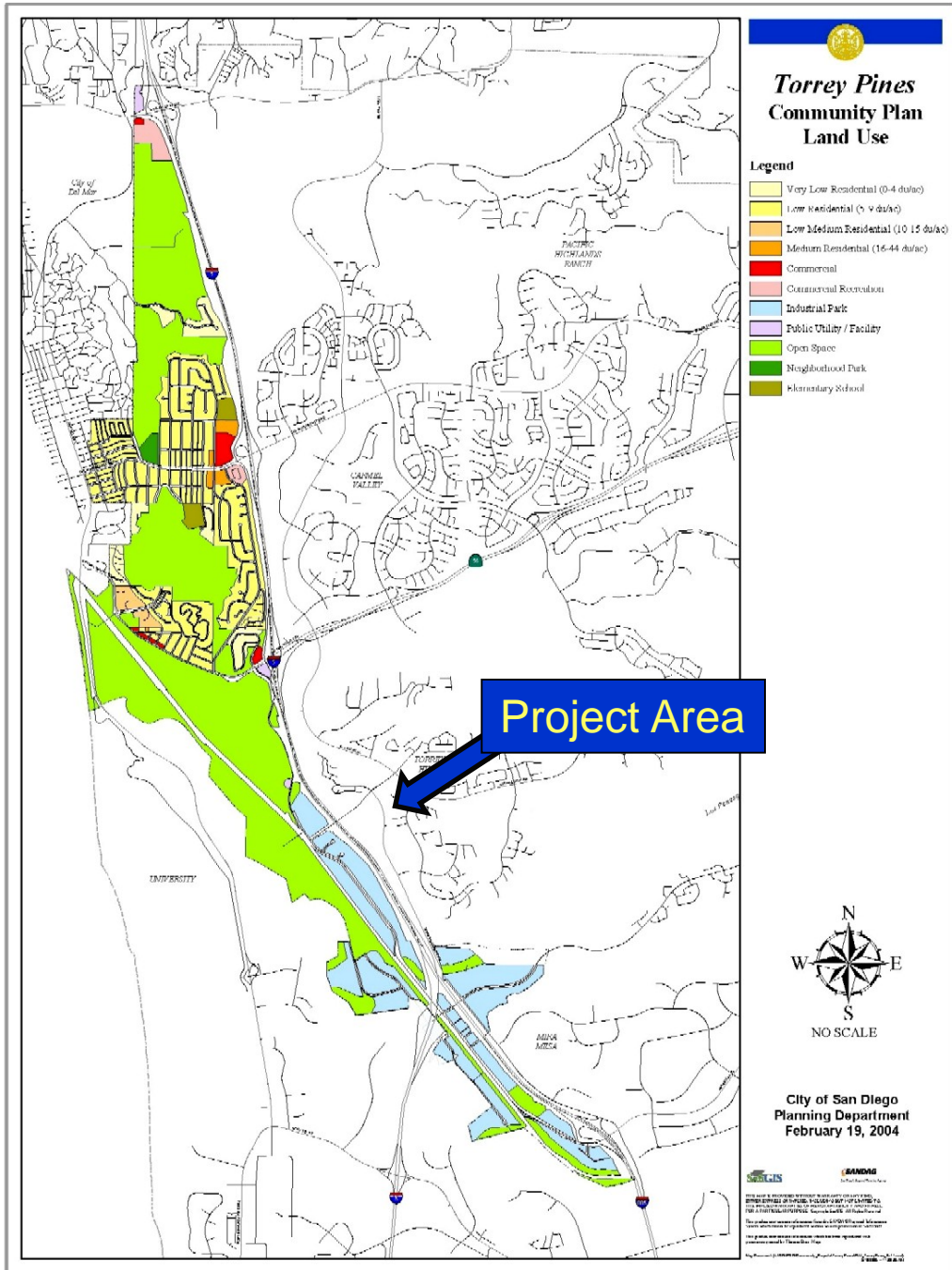
Figure 3



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Aerial Photograph - Map 6a

CITY OF SAN DIEGO ROUTINE MAINTENANCE OF STORM WATER FACILITIES



Land Use Map

SORRENTO VALLEY ROAD MAINTENANCE

MMP MAP 6 AND 6a

PROJECT NO. 220243

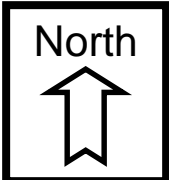


Photo Point 6A-1



BEFORE (Sept. 15, 2010 8:30AM)



AFTER (Sept 27, 2010 10:25AM)

Photo Point 6A-2



BEFORE (Sept. 15, 2010 8:30AM)



AFTER (Sept 27, 2010 10:28AM)

PHOTO DOCUMENTATION
Routine Maintenance of Storm Water Facilities, Maps 6 and 6a

Photo Point 6-1



BEFORE (Sept. 15, 2010 9:15AM)



AFTER (Sept 27, 2010 10:20AM)

Photo Point 6-2



BEFORE (Sept. 15, 2010 9:20AM)



AFTER (Sept 27, 2010 10:12AM)

Photo Point 6-3



BEFORE (Sept. 15, 2010 9:25AM)



AFTER (Sept 27, 2010 10:15AM)

Photo Point 6-4



BEFORE (Sept. 15, 2010 9:25AM)



AFTER (Sept 27, 2010 10:15AM)

HEARING OFFICER RESOLUTION NO. _____
COASTAL DEVELOPMENT PERMIT NO. 857042
SUBSTANTIAL CONFORMANCE REVIEW NO. 2178971
SORRENTO VALLEY ROAD MAINTENANCE - PROJECT NO. 220243 [MMRP]

WHEREAS, the CITY OF SAN DIEGO TRANSPORTATION & STORM WATER DEPARTMENT, Owner/Permittee, has filed an application with the City of San Diego for an after-the-fact Coastal Development Permit (CDP) and Substantial Conformance Review (SCR) for emergency maintenance completed in 2010 under Emergency CDP No. 784126 to remove accumulated sediment, trash/debris, and vegetation within the following two concrete-lined drainage facilities: (1) an existing 900-foot concrete-lined portion of a 1,804-foot long storm drain facility (Tripp) and (2) an existing 690-foot concrete-lined storm drain facility (Industrial) (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated CDP No. 857042 and SCR No. 2178971), on portions of a drainage facility;

WHEREAS, the Tripp facility is located at 11689 Sorrento Valley Road (south of Tripp Court) and the Industrial facility is located at 11803 Sorrento Valley Road (between Industrial Court and Carmel Valley Road), west of Interstate-5 bypass. The Tripp and Industrial facilities are also respectively referred to as Maps 6 and 6a of the City's Master Storm Water System Maintenance Program (MMP) in the IL 3-1 zone (Industrial) Torrey Pines Community Plan area;

WHEREAS, on September 7, 2010, the City of San Diego, as Lead Agency, through the Development Services Department, issued an Environmental Determination that the emergency maintenance to the storm drain channels is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) under CEQA Guidelines Section 15269(b), (c) as an Emergency Project; the Environmental Determination was filed with the San Diego County

ATTACHMENT 4

Recorder/Clerk's Office on September 9, 2010 and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

WHEREAS the City Transportation & Storm Water Department applied for the after-the-fact CDP and SCR on May 13, 2011;

WHEREAS, on October 24, 2011, the City Council adopted the MMP, Project No. 42891, through the approval of SDP No. 714233 and CDP No. 714232, and certified Program Environmental Impact Report (PEIR) No. 42891/SCH No. 2004101032;

WHEREAS, upon appeal of CDP No. 714232, the California Coastal Commission approved CDP No. A-6-NOC-11-086 on November 15, 2012;

WHEREAS, on August 28, 2013, the City Council approved SDP No. 1134892 , which amended and superseded SDP No. 714233/CDP No. 714232, and on February 26, 2018, the City Council approved SDP No. 2034245, which amended SDP No. 1134892;

WHEREAS the Tripp Court (Map 6) and Industrial Court (Map 6a) facilities have been part of the MMP scope since the initial permits, SDP No. 714233/CDP No. 714232, and remain so under SDP No. 2034245;

WHEREAS, on September 5, 2018, the Hearing Officer of the City of San Diego considered CDP No. 857042 and SCR No. 2178971 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, this activity has been reviewed for consistency with the PEIR prepared for the MMP (Project No. 42891/SCH No. 2004101032, October 4, 2011) certified and adopted by City Council Resolution No. R-307067 on October 24, 2011 and associated Amendment Addendum No. 528126 dated August 4, 2017 adopted by City Council Resolution R-311548 on February 13, 2018; this activity is part of a series of subsequent discretionary actions, and therefore not considered to be a separate project for purposes of California Environmental Quality Act (CEQA) review as defined

in State CEQA Guidelines Section §15378(c); and pursuant to Section 21166 of CEQA, there is no change in circumstance, additional information or project changes to warrant additional environmental review for this action; and

WHEREAS, Development Services Department staff has reviewed the individual technical assessments, maintenance plans and studies for the Tripp and Industrial emergency channel maintenance, including the Individual Maintenance Plans, Individual Biological Assessments, Individual Historical Assessments, Individual Hydrologic and Hydraulic Assessments, Individual Water Quality Assessments, and Individual Noise Assessments, along with SDP No. 2034245, and the PEIR; NOW THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. 857042:

COASTAL DEVELOPMENT PERMIT – Section 126.0708

(a) Findings for all Coastal Development Permits:

- 1. 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.**

The emergency maintenance activity does not interfere with public access to the coastal resources. There are no existing physical accessways or public views (i.e., scenic route designations and Appendix E. visual resources) identified in the Torrey Pines Community Plan and Local Coastal Program (LCP) within the project site. The emergency maintenance activity affects two storm water drainage facilities (flood control facilities) which are not intended to provide public access to coastal resources. Maintenance is a short-term activity which does not affect long-term public views in the area. In addition, access points are located on a privately-owned parking lot and driveway, and therefore, do not encroach upon any existing accessways that are legally for public use or any proposed public accessway identified in an adopted Local Coastal Program land use plan.

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

The emergency maintenance removal of approximately 489 tons of accumulated sediment, vegetation, trash and debris is within a 900-linear foot concrete-lined drainage/flood control facility located at 11689 Sorrento Valley Road (Tripp - Map 6) and a 690-foot concrete-lined drainage/flood control facility located at 11803 Sorrento Valley Road (Industrial - Map 6a). Both facilities contain small areas of wetland vegetation which are still considered sensitive biological resources, as defined in the City's Environmentally Sensitive Lands (ESL) Ordinance and Biology Guidelines. An Individual Hydrology and Hydraulic Assessment is completed to identify the minimum amount of environmentally sensitive vegetation needed to be removed to re-establish the as-built capacity to convey storm water. The conveyance capacities for both facilities were already compromised by the accumulated material before the Winter 2010 rainfall. Factors as to why additional urban and storm water runoff contribute to the sediment accumulation in both facilities where wetland vegetation grows quickly are the following: (1) additional hardscape within the drainage area (i.e. expansion of the I-5/I-805 merge and Torrey Hills development), (2) the flat topography of the site and (3) downstream controls that prevent water to drain properly. Therefore, the removal of approximately 0.05 acres of freshwater marsh wetland habitat on an existing concrete-lined storm water facilities is necessary to alleviate flooding risks.

Although the emergency maintenance impacted 0.05 acres of freshwater marsh wetland habitat within a concrete-lined channel, the long-term effect of the maintenance to environmentally sensitive lands is minimal. The City is required to mitigate the loss of 0.05-acre freshwater marsh habitat at a 4:1 ratio in the same watershed and within the Coastal Zone. There is no-net loss of wetlands since the City provides mitigation with 0.05-acre of wetland creation as part of the Final El Cuervo del Sur Wetland Habitat Mitigation and Monitoring Plan (URS 2015), and 0.15-acre of wetland enhancement is implemented as part of the Los Peñasquitos Canyon Preserve Wetlands Conceptual Wetland Enhancement Plan (URS 2015).

In addition, during emergency maintenance work, the City implemented specific biology protocols to avoid or minimize impacts to wetlands, including 1) flagging sensitive biological resource area, 2) transporting spoils to an appropriate disposal facility (landfill), 3) accessing both drainage facilities from adjacent paved parking lots/driveways, 4) storing equipment off-site, and 5) limiting maintenance activities to the minimum working days necessary to alleviate the emergency. Specific erosion control protocols are identified on the Individual Maintenance Plans and are implemented during maintenance activities to diminish water quality downstream in the coastal zone. Best Management Practices are used to isolate the maintenance area, including installation of gravel bags and placement of a silt fence at the upstream and downstream end of the facility. In accordance to Regional Water Quality Control Board's Water Quality 401 Certification and as part of pollution mitigation for this emergency maintenance, three existing storm drains are

retrofitted with curb inlet filters along Sorrento Valley Road. Therefore, the proposed coastal development will not adversely affect environmentally sensitive lands.

3. 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 Tripp facility (Map 6) is located at 11689 Sorrento Valley Road and the Industrial facility (Map 6a) is located at 11803 Sorrento Valley Road. Both Tripp and Industrial facilities are mapped as split-jurisdiction within the City's Non-Appealable Area 1 and the Coastal Appealable Area. The emergency maintenance does not involve any activities that conflict with the certified Torrey Pines Community Plan and the Local Coastal Program (LCP) and Implementation Program (i.e. Land Development Code).

The Torrey Pines LCP policies includes provisions to protect grading/water quality, wetlands/environmentally sensitive resources, and visual resources. In addition, the Land Development Code requires projects inside the Coastal Overlay Zone, to avoid impacts to wetlands and maintain a minimum 100-foot wetland buffer to protect the functions and values of wetlands unless a lesser or greater buffer is warranted. The emergency maintenance does not require development that would increase the conveyance capacity beyond its as-built condition or include any permanent placement of any structure, concrete, revetment or armor that permanently impact sensitive resources. The emergency work would maintain the function of an incidental public service facility, and therefore, impacts to wetland habitat (environmentally sensitive lands) would be permitted.

The emergency maintenance represents an activity that is incidental and necessary to provide an essential public service to protect the general public and public/private property from flooding. The loss of wetland vegetation would not be permanent because additional sediment deposition will occur in the channels and wetland vegetation will recruit and re-establish naturally between maintenance cycles. Subsequent to maintenance, City Council approved Site Development Permit No. 714233 on October 24, 2011 for the City's Master Storm Water System Program which includes deviation findings from the environmentally sensitive lands regulations. Both Tripp and Industrial facilities are included in City's Master Storm Water System Program to be maintained.

The City is required to mitigate the loss of 0.05-acre freshwater marsh habitat at a 4:1 ratio in the same watershed and within the Coastal Zone. There is no-net loss of wetlands since the City provides mitigation with 0.05-acre of wetland creation as part of the *Final El Cuervo del Sur Wetland Habitat Mitigation and Monitoring Plan (URS 2015)* and 0.15-acre of wetland enhancement is implemented as part of the *Los Peñasquitos Canyon Preserve Wetlands Conceptual Wetland Enhancement Plan (URS 2015)*.

Specific erosion control protocols are implemented during maintenance activities to reduce potential downstream water quality impacts. Best Management Practices are

used to isolate the maintenance area, including installation of gravel bags and placement of a silt fence at the upstream and downstream end of the facility. In addition, three existing storm drain inlets along Sorrento Valley Road are retrofitted with curb inlet filters in accordance to Regional Water Quality Control Board's Water Quality 401 Certification. Furthermore, the City implements specific protocols designed to avoid or minimize impacts to wetlands, including 1) flagging sensitive biological resource areas, 2) transporting spoils to an appropriate disposal facility (landfill), 3) accessing both drainage facilities from adjacent paved parking lots/driveways, 4) storing equipment off-site, and 5) limiting maintenance activities to the minimum working days necessary to alleviate the emergency. Therefore, 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.

- 4. 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 Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

Neither of the project sites are located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay zone. The project does not propose to encroach into any public accessway and emergency work occurred within the channel and designated staging/access areas. Therefore, this project does not 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.

(b) Supplemental Findings – Deviations to Environmentally Sensitive Lands Within the Coastal Overlay Zone.

- 1. 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 would not provide any economically viable use of the applicant's property.**

While storm water facilities are permitted as incidental public services projects, under the ESL regulations, encroachment into the 100-foot wetland buffer is not allowed without an approval of a deviation. Use of this facility to effectively convey storm water requires routine maintenance. The T&SWD would be denied the only economically viable use of the facility if T&SWD is not allowed entry into the wetland buffer area for maintenance. In addition, the facility conveys storm water to an area that is prone to flooding. Maintenance may prevent future T&SWD claims. Therefore, the applicant'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.

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

Although both facilities are concrete-lined, the strict application of the environmentally sensitive lands regulations would not allow for maintenance of these channels because they are considered drainages (e.g. having the hydrology of a wetland) which could potentially impact sensitive biological and historical resources. Under City of San Diego 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, environmentally, and aesthetically acceptable manner for the protection of property and life. Strict application of the environmentally sensitive lands regulations would prohibit maintenance within drainages where wetlands and wetland buffers are identified, and would therefore, interfere with the public's expectation of the City's budget to include operational and maintenance costs that would reduce the risk of flooding.

Additionally, as a General Fund department, the City pays substantiated claims made by residents and business owners for the loss of property and damage caused by flooding. This is correlated to lack of frequent maintenance activities (dredging and excavation) for affected channels, such as the storm drain facilities Map 6 and 6a, whose conveyance capacities are diminished by the material that accumulates and settles within the channel. Therefore, application of the Environmentally Sensitive Lands Regulations would interfere with the applicant's reasonable investment-backed expectations.

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

The project site is zoned IL-2-1 and IL-3-1 (Light Industrial) and is located within the Coastal Overlay zone. Both storm water facilities are mapped within drainage easements dedicated to the City. Flood control facilities are permitted uses in all industrial zones, and therefore, the applicant proposes flood control use consistent with the applicable zoning. The emergency maintenance would not change or alter the existing zoning or the mapping of the existing dedicated drainage easement.

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

The emergency maintenance removal of approximately 489 tons of accumulated sediment, vegetation, trash and debris is within a 900-linear foot concrete-lined drainage/flood control facility located at 11689 Sorrento Valley Road (Tripp - Map 6) and a 690-foot concrete-lined drainage/flood control facility located at 11803 Sorrento Valley Road (Industrial - Map 6a). Both storm water facilities are mapped within drainage easements dedicated to the City. Based on the surrounding built development, these facilities are designed to convey storm water flows (urban runoff and rainfall) to adequately drain the surrounding drainage area and properties to reduce flooding risks. An Individual Hydrology and Hydraulic Assessment is completed to identify the minimum amount of environmentally sensitive vegetation

needed to be removed to re-establish the as-built capacity to convey storm water. The conveyance capacities for both facilities were already compromised by the accumulated material before the Winter 2010 rainfall, and therefore, the removal of sensitive wetland vegetation was necessary to alleviate flooding risks. Factors as to why additional urban and storm water runoff contribute to the sediment accumulation in both facilities where wetland vegetation grows quickly are the following: (1) additional hardscape within the drainage area (i.e. expansion of the I-5/I-805 merge and Torrey Hills development), (2) the flat topography of the site and (3) downstream controls that prevent water to drain properly. Therefore, the emergency maintenance scope of work is the minimum necessary to restore conveyance capacities to their as-built conditions.

Vegetation removal is limited to what is necessary to achieve desirable conveyance of storm water. The long-term performance and economic viability of these storm water facilities is dependent upon ongoing and proper maintenance.

5. 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.

No expansion or modifications to the storm water facilities beyond their original as-built design is made. A completed Individual Hydrology and Hydraulic Assessment identifies the minimum amount of environmentally sensitive vegetation needed to be removed to re-establish the as-built capacity to convey storm water. The conveyance capacities for both facilities are already compromised by the accumulated material before the impending Winter 2010 rainfall, and therefore, the removal of sensitive wetland vegetation is necessary to alleviate flooding risks. Factors as to why additional urban and storm water runoff contribute to the sediment accumulation in both facilities where wetland vegetation grows quickly are the following: (1) additional hardscape within the drainage area (i.e. expansion of the I-5/I-805 merge and Torrey Hills development), (2) the flat topography of the site and (3) downstream controls that prevent water to drain properly. Therefore, the emergency maintenance scope of work is the minimum necessary to restore conveyance capacities to their as-built conditions.

The Torrey Pines Local Coastal Program (LCP) policies includes provisions to protect grading/water quality, wetlands/environmentally sensitive resources, and visual resources. In addition, the Land Development Code requires projects inside the Coastal Overlay Zone, to avoid impacts to wetlands and maintain a minimum 100-foot wetland buffer to protect the functions and values of wetlands unless a lesser or greater buffer is warranted. The emergency maintenance does not require development that would increase the conveyance capacities beyond its as-built condition or include any permanent placement of any structure, concrete, revetment or armor that would permanently impact sensitive resources. The emergency work would maintain the function of an incidental public service facility, and therefore, impacts to wetland habitat (environmentally sensitive lands) would be permitted. Since the facilities are located within drainage easements mapped within private

properties, and the maintenance itself would remove existing wetlands, a wetland buffer would be infeasible. The maintenance of flood control facilities is therefore consistent with the provisions of the certified LCP.

The emergency maintenance represented an activity that is incidental and necessary to provide an essential public service to protect the general public and public/private property from flooding. The loss of wetland vegetation would not be permanent because additional sediment deposition will occur in the channels and wetland vegetation will recruit and re-establish naturally between maintenance cycles. Subsequent to maintenance, City Council approved Site Development Permit No. 714233 on October 24, 2011 for the City's Master Storm Water System Program which includes deviation findings from the environmentally sensitive lands regulations. Both Tripp and Industrial facilities are included in the City's Master Storm Water System Program to be maintained.

The City is required to mitigate the loss of 0.05-acre freshwater marsh habitat at a 4:1 ratio in the same watershed and within the Coastal Zone. There is no-net loss of wetlands since the City provides mitigation with 0.05-acre of wetland creation as part of the *Final El Cuervo del Sur Wetland Habitat Mitigation and Monitoring Plan (URS 2015)* and 0.15-acre of wetland enhancement is implemented as part of the *Los Peñasquitos Canyon Preserve Wetlands Conceptual Wetland Enhancement Plan (URS 2015)*.

Specific erosion control protocols are implemented during maintenance activities to reduce potential downstream water quality impacts. Best Management Practices are used to isolate the maintenance area, including installation of gravel bags and placement of a silt fence at the upstream and downstream end of the facility. In addition, three existing storm drain inlets along Sorrento Valley Road are retrofitted with curb inlet filters in accordance to Regional Water Quality Control Board's Water Quality 401 Certification. Furthermore, the City implements specific protocols designed to avoid or minimize impacts to wetlands, including 1) flagging sensitive biological resource areas, 2) transporting spoils to an appropriate disposal facility (landfill), 3) accessing both drainage facilities from adjacent paved parking lots/driveways, 4) storing equipment off-site, and 5) limiting maintenance activities to the minimum working days necessary to alleviate the emergency.

The project is consistent with the provisions of the certified Local Coastal Program.

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

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the HEARING OFFICER is hereby GRANTED by the HEARING OFFICER to the referenced Owner/Permittee, in the

ATTACHMENT 4

form, exhibits, terms and conditions as set forth in Permit No. 857042 a copy of which is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that as the Tripp and Industrial facilities are included in the MMP and SDP No. 2034245, the emergency maintenance is in substantial conformance with the MMP, SDP No. 2034245, and the PEIR, and that SUBSTANTIAL CONFORMANCE REVIEW NO. 2178971 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee.

Helene Deisher
Development Project Manager
Development Services

Adopted on: September 5, 2018

IO#: 21003732 (FUND 100000)

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 21003732 (FUND 100000)

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 857042
SORRENTO VALLEY ROAD MAINTENANCE - PROJECT NO. 220243 [MMRP]
Hearing Officer

This Coastal Development Permit (CDP) No. 857042 is granted by the Hearing Officer of the City of San Diego to CITY OF SAN DIEGO TRANSPORTATION & STORM WATER DEPARTMENT, Owner/Permittee pursuant to San Diego Municipal Code [SDMC] section 126.0708 and Site Development Permit No. 2034245, which amended Site Development Permit No. 1134892 for the Master Storm Water System Maintenance Program. This after-the-fact CDP is for emergency maintenance work performed on two storm drain facilities located at 11689 Sorrento Valley Road south of Tripp Court (Tripp) and 11803 Sorrento Valley Road between Industrial Court and Carmel Valley Road (Industrial), west of Interstate-5 bypass. The Tripp and Industrial facilities are also respectively referred to as Maps 6 and 6a of the City's Master Storm Water System Maintenance Program in the IL 3-1 zone (Industrial), Coastal (Non-Appealable and Appealable) zones of the Torrey Pines Community Plan area.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for emergency maintenance completed under Emergency Coastal Development Permit No. 784126 to remove accumulated sediment, trash/debris, and vegetation within: (1) an existing 900-foot concrete-lined portion of a 1,804-foot long storm drain facility (Tripp) and (2) an existing 690-foot concrete-lined storm drain facility (Industrial), described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 5, 2018, on file in the Development Services Department (the "project").

The project shall include:

- a. Emergency maintenance within two storm drainage channels at 11689 Sorrento Valley Road south of Tripp Court (Tripp) and at 11803 Sorrento Valley Road between Industrial Court and Carmel Valley Road (Industrial), west of Interstate-5 bypass, more specifically an existing 900-foot concrete-lined portion of a 1,804-foot long storm drain facility (Tripp) and (2) an existing 690-foot concrete-lined storm drain facility (Industrial).

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by September 19, 2021.
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 property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
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. 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/MITIGATION REQUIREMENTS:

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

10. The mitigation measures specified in the MMRP and outlined in PROGRAM ENVIRONMENTAL IMPACT REPORT, NO. 42891/SCH No. 2004101032, October 4, 2011, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

11. The Owner/Permittee shall comply with the MMRP as specified in PROGRAM ENVIRONMENTAL IMPACT REPORT, NO. 42891/SCH No. 2004101032, October 4, 2011 to the satisfaction of the Development Services Department and the City Engineer. Prior to the issuance of the "Notice to Proceed" with construction, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas: **Biological Resources**

INFORMATION ONLY:

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

APPROVED by the Hearing Officer of the City of San Diego on September 5, 2018 and Resolution No. XXX.

ATTACHMENT 5

COASTAL DEVELOPMENT PERMIT NO. 857042
September 5, 2018

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Helene Deisher
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.

**City of San Diego
Transportation & Storm Water Department
Owner/Permittee**

By _____
NAME: Roger Wammack
TITLE: Assistant Deputy Director

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