

# City of San Diego

**CONTRACTOR'S NAME:** Tri-Group Construction & Development, Inc.  
**ADDRESS:** 9580 Black Mountain Rd, Ste L San Diego, CA 92126  
**TELEPHONE NO.:** (858) 689-0058 **FAX NO.:**  
**CITY CONTACT:** Juan E. Espindola, Senior Contract Specialist, Email: [JEEspindola@sandiego.gov](mailto:JEEspindola@sandiego.gov)  
Phone No. (619) 533-4491  
A. Brewster / A. Jaro / N. Alkuree

## BIDDING DOCUMENTS



**FOR**

## South Chollas Creek and Paradise Canyon Open Space Wetland Mitigation Project

**BID NO.:** L-23-2188-DBB-2  
**SAP NO. (WBS/IO/CC):** 21005027  
**CLIENT DEPARTMENT:** 2114  
**COUNCIL DISTRICT:** 4  
**PROJECT TYPE:** GG

**THIS CONTRACT WILL BE SUBJECT TO THE FOLLOWING:**

- THE CITY'S SUBCONTRACTING PARTICIPATION REQUIREMENTS FOR SLBE PROGRAM
- COMPETITION RESTRICTED TO: SLBE-ELBE  or ELBE FIRMS ONLY
- PREVAILING WAGE RATES: STATE  FEDERAL
- APPRENTICESHIP

**BID DUE DATE:**

**2:00 PM  
JULY 25, 2023**

**CITY OF SAN DIEGO'S ELECTRONIC BIDDING SITE, PLANETBIDS**

<http://www.sandiego.gov/cip/bidopps/index.shtml>

**ENGINEER OF WORK**

The engineering Specifications and Special Provisions contained herein have been prepared by or under the direction of the following Registered Landscaped Architect:

Stuart F. Fraser  
1) Registered Landscaped Architect

May 26, 2023  
Date

Seal:



Jillian Haynes  
2) For City Engineer

May 30, 2023  
Date

Seal:



## TABLE OF CONTENTS

| SECTION  | PAGE |
|--|------|
| 1. REQUIRED DOCUMENTS SCHEDULE.....  | 4    |
| 2. NOTICE INVITING BIDS.....   | 5    |
| 3. INSTRUCTIONS TO BIDDERS .....   | 7    |
| 4. PERFORMANCE AND PAYMENT BONDS .....   | 17   |
| 5. ATTACHMENTS:  |      |
| A. SCOPE OF WORK.....  | 20   |
| B. RESERVED.....   | 23   |
| C. EQUAL OPPORTUNITY CONTRACTING PROGRAM .....                                 | 24   |
| D. PREVAILING WAGE.....  | 44   |
| E. SUPPLEMENTARY SPECIAL PROVISIONS.....                                       | 49   |
| 1. Appendix A - CEQA Section15162 Consistency Memo .....                       | 64   |
| 2. Appendix B - Fire Hydrant Meter Program .....                               | 129  |
| 3. Appendix C - Materials Typically Accepted by Certificate of Compliance..... | 143  |
| 4. Appendix D - Sample City Invoice with Cash Flow Forecast.....               | 145  |
| 5. Appendix E - Vicinity Map.....  | 148  |
| 6. Appendix F - Sample Archaeology Invoice.....                                | 150  |
| 7. Appendix G - Sample of Public Notice .....                                  | 153  |
| F. RESERVED.....   | 155  |
| G. CONTRACT AGREEMENT .....  | 156  |
| 6. CERTIFICATIONS AND FORMS.....   | 159  |

## REQUIRED DOCUMENTS SCHEDULE DURING BIDDING AND AWARDING

The Bidder’s attention is directed to the City’s Municipal Code §22.0807(d)(2) for important information regarding grounds for debarment for failure to submit required documentation.

The specified Equal Opportunity Contracting Program (EOCP) forms are available for download from the City’s web site at:

<http://www.sandiego.gov/eoc/forms/index.shtml>

| ITEM | DOCUMENT TO BE SUBMITTED   | WHEN DUE  | FROM           |
|------|--|---|----------------|
| 1.   | Bid Bond (PDF via PlanetBids)  | At Time of Bid  | ALL BIDDERS    |
| 2.   | Contractors Certification of Pending Actions   | At Time of Bid  | ALL BIDDERS    |
| 3.   | Mandatory Disclosure of Business Interests   | At Time of Bid  | ALL BIDDERS    |
| 4.   | Debarment and Suspension Certification for Prime Contractors   | At Time of Bid  | ALL BIDDERS    |
| 5.   | Debarment and Suspension Certification for Subcontractors, Suppliers & Mfgs  | At Time of Bid  | ALL BIDDERS    |
| 6.   | Bid Bond (Original)  | By 5PM 1 working day after bid opening                                | ALL BIDDERS    |
| 7.   | If the Contractor is a Joint Venture: <ul style="list-style-type: none"> <li>• Joint Venture Agreement</li> <li>• Joint Venture License</li> </ul> | Within 10 working days of receipt by bidder of contract forms         | AWARDED BIDDER |
| 8.   | Payment & Performance Bond; Certificates of Insurance & Endorsements; and Signed Contract Agreement Page   | Within 10 working days of receipt by bidder of contract forms and NOI | AWARDED BIDDER |
| 9.   | Listing of “Other Than First Tier” Subcontractors  | Within 10 working days of receipt by bidder of contract forms         | AWARDED BIDDER |



## NOTICE INVITING BIDS

1. **SUMMARY OF WORK:** This is the City of San Diego's (City) solicitation process to acquire Construction services for **South Chollas Creek and Paradise Canyon Open Space Wetland Mitigation Project** . For additional information refer to Attachment A.
2. **LIMITED COMPETITION:** This solicitation is open only to City-certified **SLBE/ELBE** firms on the City's approved Prequalified Contractors List. For information regarding the SLBE-ELBE Construction Program and registration visit the City's web site: <http://www.sandiego.gov>.
3. **ESTIMATED CONSTRUCTION COST:** The City's estimated construction cost for this project is **\$770,000**.
4. **BID DUE DATE AND TIME ARE: July 25, 2023 at 2:00 PM.**
5. **PREVAILING WAGE RATES APPLY TO THIS CONTRACT:** Refer to Attachment D.
6. **LICENSE REQUIREMENT:** To be eligible for award of this contract, Prime contractor must possess the following licensing classification: **A** or **C-27**
7. **SUBCONTRACTING PARTICIPATION PERCENTAGES:**
  - 7.1. The City has incorporated voluntary subcontractor participation percentage to enhance competition and maximize subcontracting opportunities as follows.
  - 7.2. The following voluntary subcontractor participation percentage for DBE, DVBE, WBE, MBE, SLBE, and ELBE certified Subcontractors shall apply to this contract:

**Total voluntary subcontractor participation percentage for this project is 10%.**
8. **PRE-BID SITES VISIT:** All those wishing to submit a bid are **encouraged** to visit the Work Sites with the Engineer. The purpose of the Sites visit is to acquaint Bidders with the Sites conditions. To request a sign language or oral interpreter for this visit, call the Purchasing & Contracting Department, Public Works Division at (619) 533-3450 at least 5 Working Days prior to the meeting to ensure availability. The Pre-Bid Sites Visit is scheduled as follows:

|                   |   |
|-------------------|---|
| <b>Time:</b>      | <b>9:00 AM – 11:00 AM</b>   |
| <b>Date:</b>      | <b>Thursday, July 6, 2023</b>   |
| <b>Locations:</b> | <b>South Chollas Creek Site at Northeast corner of Ocean View Blvd &amp; Marketplace Ave, San Diego, CA 92114;</b><br><b>Followed by visit to Paradise Canyon Site at 100 Deep Dell Rd, San Diego, CA 92114</b> |
9. **AWARD PROCESS:**
  - 9.1. The Award of this contract is contingent upon the Contractor's compliance with all conditions of Award as stated within these documents and within the Notice of Intent to Award.

- 9.2. Upon acceptance of bids and determination of the apparent low bidder, the City will prepare the contract documents for execution within approximately 21 days of the date of the bid opening. The City will then award the contract upon receipt of properly signed Contract, bonds, and insurance documents.
- 9.3. This contract will be deemed executed and effective only upon the signing of the Contract by the Mayor or his designee and approval as to form by the City Attorney's Office.
- 9.4. The low Bid will be determined by the Base Bid.
- 9.5. Once the low bid has been determined, the City may, at its sole discretion, award the contract for the Base Bid alone.

**10. SUBMISSION OF QUESTIONS:**

- 10.1. The Director (or Designee) of the Purchasing & Contracting Department is the officer responsible for opening, examining, and evaluating the competitive Bids submitted to the City for the acquisition, construction and completion of any public improvement except when otherwise set forth in these documents. Any questions related to this solicitation shall be submitted to:

[JEEspindola@sandiego.gov](mailto:JEEspindola@sandiego.gov)

- 10.2. Questions received less than 14 days prior to the date for opening of Bids may not be considered.
- 10.3. Questions or clarifications deemed by the City to be material shall be answered via issuance of an addendum and posted to the City's online bidding service.
- 10.4. Only questions answered by formal written addenda shall be binding. Oral and other interpretations or clarifications shall be without legal effect. It is the Bidder's responsibility to be informed of any addenda that have been issued and to include all such information in its Bid.

## INSTRUCTIONS TO BIDDERS

### 1. PREQUALIFICATION OF CONTRACTORS:

- 1.1. Contractors submitting a Bid must be pre-qualified for the total amount proposed, including all alternate items, prior to the date of submittal. Bids from contractors who have not been pre-qualified as applicable and Bids that exceed the maximum dollar amount at which contractors are pre-qualified may be deemed **non-responsive** and ineligible for award.
- 1.2. The completed application must be submitted online no later than 2 weeks prior to the bid opening.
- 1.3. **Joint Venture Bidders Cumulative Maximum Bidding Capacity:** For projects with an engineer's estimate of \$30,000,000 or greater, Joint Ventures submitting bids may be deemed responsive and eligible for award if the cumulative maximum bidding capacity of the individual Joint Venture entities is equal to or greater than the total amount proposed.
  - 1.3.1. Each of the entities of the Joint Venture must have been previously prequalified at a minimum of \$15,000,000.
  - 1.3.2. Bids submitted with a total amount proposed of less than \$30,000,000 are not eligible for Cumulative Maximum Bidding Capacity prequalification. To be eligible for award in this scenario, the Joint Venture itself or at least one of the Joint Venture entities must have been prequalified for the total amount proposed.
  - 1.3.3. Bids submitted by Joint Ventures with a total amount proposed of \$30,000,000 or greater on a project with an engineer's estimate of less than \$30,000,000 are not eligible for Cumulative Maximum Bidding Capacity prequalification.
  - 1.3.4. The Joint Venture designated as the Apparent Low Bidder shall provide evidence of its corporate existence and furnish good and approved bonds in the name of the Joint Venture within 14 Calendar Days of receipt by the Bidder of a form of contract for execution.
- 1.4. Complete information and links to the on-line prequalification application are available at:  
  
<http://www.sandiego.gov/cip/bidopps/prequalification>
- 1.5. Due to the City's responsibility to protect the confidentiality of the contractors' information, City staff will not be able to provide information regarding contractors' prequalification status over the telephone. Contractors may access real-time information about their prequalification status via their vendor profile on [PlanetBids.™](#)

2. **ELECTRONIC FORMAT RECEIPT AND OPENING OF BIDS:** Bids will be received in electronic format (eBids) EXCLUSIVELY at the City of San Diego's electronic bidding (eBidding) site, at: <http://www.sandiego.gov/cip/bidopps/index.shtml> and are due by the date, and time shown on the cover of this solicitation.
- 2.1. **BIDDERS MUST BE PRE-REGISTERED** with the City's bidding system and possess a system-assigned Digital ID in order to submit an electronic bid.
- 2.2. The City's bidding system will automatically track information submitted to the site including IP addresses, browsers being used and the URLs from which information was submitted. In addition, the City's bidding system will keep a history of every login instance including the time of login, and other information about the user's computer configuration such as the operating system, browser type, version, and more. Because of these security features, Contractors who disable their browsers' cookies will not be able to log in and use the City's bidding system.
- 2.3. The City's electronic bidding system is responsible for bid tabulations. Upon the bidder's or proposer's entry of their bid, the system will ensure that all required fields are entered. **The system will not accept a bid for which any required information is missing.** This includes all necessary pricing, subcontractor listing(s) and any other essential documentation and supporting materials and forms requested or contained in these solicitation documents.
- 2.4. **BIDS REMAIN SEALED UNTIL BID DEADLINE.** eBids are transmitted into the City's bidding system via hypertext transfer protocol secure (https) mechanism using SSL 128-256 bit security certificates issued from Verisign/Thawte which encrypts data being transferred from client to server. Bids submitted prior to the "Bid Due Date and Time" are not available for review by anyone other than the submitter who has until the "Bid Due Date and Time" to change, rescind or retrieve its proposal should it desire to do so.
- 2.5. **BIDS MUST BE SUBMITTED BY BID DUE DATE AND TIME.** Once the bid deadline is reached, no further submissions are accepted into the system. Once the Bid Due Date and Time has lapsed, bidders, proposers, the general public, and City staff are able to immediately see the results on line. City staff may then begin reviewing the submissions for responsiveness, EOCB compliance and other issues. The City may require any Bidder to furnish statement of experience, financial responsibility, technical ability, equipment, and references.
- 2.6. **RECAPITULATION OF THE WORK.** Bids shall not contain any recapitulation of the Work. Conditional Bids may be rejected as being non-responsive. Alternative proposals will not be considered unless called for.

**2.7. BIDS MAY BE WITHDRAWN** by the Bidder only up to the bid due date and time.

**2.7.1. Important Note:** Submission of the electronic bid into the system may not be instantaneous. Due to the speed and capabilities of the user's internet service provider (ISP), bandwidth, computer hardware and other variables, it may take time for the bidder's submission to upload and be received by the City's eBidding system. It is the bidder's sole responsibility to ensure their bids are received on time by the City's eBidding system. The City of San Diego is not responsible for bids that do not arrive by the required date and time.

**2.8. ACCESSIBILITY AND AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE:** To request a copy of this solicitation in an alternative format, contact the Purchasing & Contracting Department, Public Works Division Contract Specialist listed on the cover of this solicitation at least five (5) working days prior to the Bid/Proposal due date to ensure availability.

**3. ELECTRONIC BID SUBMISSIONS CARRY FULL FORCE AND EFFECT:**

**3.1.** The bidder, by submitting its electronic bid, acknowledges that doing so carries the same force and full legal effect as a paper submission with a longhand (wet) signature.

**3.2.** By submitting an electronic bid, the bidder certifies that the bidder has thoroughly examined and understands the entire Contract Documents (which consist of the plans and specifications, drawings, forms, affidavits and the solicitation documents), and that by submitting the eBid as its bid proposal, the bidder acknowledges, agrees to and is bound by the entire Contract Documents, including any addenda issued thereto, and incorporated by reference in the Contract Documents.

**3.3.** The Bidder, by submitting its electronic bid, agrees to and certifies under penalty of perjury under the laws of the State of California, that the certification, forms and affidavits submitted as part of this bid are true and correct.

**3.4.** The Bidder agrees to the construction of the project as described in Attachment "A-Scope of Work" for the City of San Diego, in accordance with the requirements set forth herein for the electronically submitted prices. The Bidder guarantees the Contract Price for a period of 120 days from the date of Bid opening. The duration of the Contract Price guarantee shall be extended by the number of days required for the City to obtain all items necessary to fulfill all conditions precedent.

**4. BIDS ARE PUBLIC RECORDS:** Upon receipt by the City, Bids shall become public records subject to public disclosure. It is the responsibility of the respondent to clearly identify any confidential, proprietary, trade secret or otherwise legally privileged information contained within the Bid. General references to sections of the California Public Records Act (PRA) will not suffice. If the Contractor does not provide applicable case law that clearly establishes that the requested information is exempt from the disclosure requirements of the PRA, the City

shall be free to release the information when required in accordance with the PRA, pursuant to any other applicable law, or by order of any court or government agency, and the Contractor will hold the City harmless for release of this information.

**5. CONTRACTOR REGISTRATION AND ELECTRONIC REPORTING SYSTEM:**

**5.1.** **Prior** to the Award of the Contract or Task Order, you and your Subcontractors and Suppliers must register with the City’s web-based vendor registration and bid management system. For additional information go to:

<http://www.sandiego.gov/purchasing/bids-contracts/vendorreg>

**5.2.** The City may not award the contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified in the Notice of Intent to Award letter, the City reserves the right to rescind the Notice of Award / Intent to Award and to make the award to the next responsive and responsible bidder / proposer.

**6. JOINT VENTURE CONTRACTORS:** Provide a copy of the Joint Venture agreement and the Joint Venture license to the City within 14 Calendar Days after receiving the Contract forms.

**7. INSURANCE REQUIREMENTS:**

**7.1.** All certificates of insurance and endorsements required by the contract are to be provided upon issuance of the City’s Notice of Intent to Award letter.

**7.2.** Refer to sections 5-4, “INSURANCE” of the Supplementary Special Provisions (SSP) for the insurance requirements which must be met.

**8. REFERENCE STANDARDS:** Except as otherwise noted or specified, the Work shall be completed in accordance with the following standards:

| Title  | Edition | Document Number |
|--|---------|-----------------|
| Standard Specifications for Public Works Construction (“The GREENBOOK”) <a href="http://www.greenbookspecs.org/">http://www.greenbookspecs.org/</a>  | 2021    | ECPI010122-01   |
| City of San Diego Standard Specifications for Public Works Construction (“The WHITEBOOK”)* <a href="https://www.sandiego.gov/ecp/edocref/greenbook">https://www.sandiego.gov/ecp/edocref/greenbook</a>   | 2021    | ECPI010122-02   |
| City of San Diego Standard Drawings* <a href="https://www.sandiego.gov/ecp/edocref/standarddraw">https://www.sandiego.gov/ecp/edocref/standarddraw</a>   | 2021    | ECPI010122-03   |
| Citywide Computer Aided Design and Drafting (CADD) Standards <a href="https://www.sandiego.gov/ecp/edocref/drawings">https://www.sandiego.gov/ecp/edocref/drawings</a>   | 2018    | PWPI010119-04   |
| California Department of Transportation (CALTRANS) Standard Specifications <a href="https://dot.ca.gov/programs/design/ccs-standard-plans-and-standard-specifications">https://dot.ca.gov/programs/design/ccs-standard-plans-and-standard-specifications</a> | 2018    | PWPI030119-05   |

| Title  | Edition | Document Number |
|--|---------|-----------------|
| CALTRANS Standard Plans<br><a href="https://dot.ca.gov/programs/design/ccs-standard-plans-and-standard-specifications">https://dot.ca.gov/programs/design/ccs-standard-plans-and-standard-specifications</a>   | 2018    | PWPI030119-06   |
| California Manual on Uniform Traffic Control Devices Revision 6 (CA MUTCD Rev 6)<br><a href="https://dot.ca.gov/programs/safety-programs/camutcd/camutcd-files">https://dot.ca.gov/programs/safety-programs/camutcd/camutcd-files</a>                                      | 2014    | PWPI060121-10   |
| <p><b>NOTE:</b> *Available online under Engineering Documents and References at:<br/><a href="https://www.sandiego.gov/ecp/edocref/">https://www.sandiego.gov/ecp/edocref/</a></p> <p>*Electronic updates to the Standard Drawings may also be found in the link above</p> |         |                 |

9. **CITY'S RESPONSES AND ADDENDA:** The City, at its discretion, may respond to any or all questions submitted in writing via the City's eBidding web site in the **form of an addendum**. No other responses to questions, oral or written shall be of any force or effect with respect to this solicitation. The changes to the Contract Documents through addenda are made effective as though originally issued with the Bid. The Bidders shall acknowledge the receipt of Addenda at the time of bid submission.
10. **CITY'S RIGHTS RESERVED:** The City reserves the right to cancel the Notice Inviting Bids at any time, and further reserves the right to reject submitted Bids, without giving any reason for such action, at its sole discretion and without liability. Costs incurred by the Bidder(s) as a result of preparing Bids under the Notice Inviting Bids shall be the sole responsibility of each bidder. The Notice Inviting Bids creates or imposes no obligation upon the City to enter a contract.
11. **CONTRACT PRICING:** This solicitation is for a Lump Sum contract with Unit Price provisions as set forth herein. The Bidder agrees to perform construction services for the City of San Diego in accordance with these contract documents for the prices listed below. The Bidder further agrees to guarantee the Contract Price for a period of 120 days from the date of Bid opening. The duration of the Contract Price guarantee may be extended, by mutual consent of the parties, by the number of days required for the City to obtain all items necessary to fulfill all contractual conditions.
12. **SUBCONTRACTOR INFORMATION:**
- 12.1. **LISTING OF SUBCONTRACTORS.** In accordance with the requirements provided in the "Subletting and Subcontracting Fair Practices Act" of the California Public Contract Code, the Bidder shall provide the **NAME** and **ADDRESS** of each Subcontractor who will perform work, labor, render services or who specially fabricates and installs a portion [type] of the work or improvement, in an amount in excess of 0.5% of the Contractor's total Bid. The Bidder shall also state within the description, whether the subcontractor is a **CONSTRUCTOR, CONSULTANT** or **SUPPLIER**. The Bidder shall state the **DIR REGISTRATION NUMBER** for all subcontractors and shall further state within the description, the **PORTION** of the work which will be performed by each subcontractor under this Contract. The Contractor shall list only one Subcontractor for each portion of the Work. The **DOLLAR VALUE** of the total Bid to be performed shall be stated for all subcontractors listed. Failure to comply with this requirement

may result in the Bid being rejected as **non-responsive** and ineligible for award. The Bidder's attention is directed to the Special Provisions – Section 3-2, “Self-Performance”, which stipulates the percent of the Work to be performed with the Bidders' own forces. The Bidder shall list all SLBE, ELBE, DBE, DVBE, MBE, WBE, OBE, SDB, WoSB, HUBZone, and SDVOSB Subcontractors for which Bidders are seeking recognition towards achieving any mandatory, voluntary (or both) subcontracting participation goals.

Additionally, pursuant to California Senate Bill 96 and in accordance with the requirements of Labor Code sections 1771.1 and 1725.5, by submitting a bid or proposal to the City, Contractor is certifying that he or she has verified that all subcontractors used on this public work project are registered with the California Department of Industrial Relations (DIR). **The Bidder shall provide the name, address, license number, DIR registration number of any Subcontractor – regardless of tier** - who will perform work, labor, render services or specially fabricate and install a portion [type] of the work or improvement pursuant to the contract.

**12.2. LISTING OF SUPPLIERS.** Any Bidder seeking the recognition of Suppliers of equipment, materials, or supplies obtained from third party Suppliers towards achieving any mandatory or voluntary (or both) subcontracting participation goals shall provide, at a minimum, the **NAME, LOCATION (CITY), DIR REGISTRATION NUMBER** and the **DOLLAR VALUE** of each supplier. The Bidder will be credited up to 60% of the amount to be paid to the Suppliers for materials and supplies unless vendor manufactures or substantially alters materials and supplies, in which case, 100% will be credited. The Bidder is to indicate within the description whether the listed firm is a supplier or manufacturer. If no indication is provided, the listed firm will be credited at 60% of the listed dollar value for purposes of calculating the Subcontractor Participation Percentage.

**12.3. LISTING OF SUBCONTRACTORS OR SUPPLIERS FOR ALTERNATES.** For subcontractors or suppliers to be used on alternate items, bidder shall use the provided **“Subcontractors For Alternates”** form and shall indicate for each alternate subcontract whether it is an additive or deductive alternate; the subcontractor's name, location, phone number, email address, CA license number, and DIR registration number; whether the subcontractor is a designer, constructor or supplier; the type of work the subcontractor will be performing; and the dollar value of the subcontract for that alternate item. Failure to comply with this requirement may result in the bid being rejected as nonresponsive and ineligible for award.

**13. SUBMITTAL OF “OR EQUAL” ITEMS:** See Section 4-6, “Trade Names” in The WHITEBOOK and as amended in the SSP.

**14. AWARD:**

**14.1.** The Award of this contract is contingent upon the Contractor's compliance with all conditions precedent to Award.



- 14.2.** Upon acceptance of a Bid, the City will prepare contract documents for execution within approximately 21 days of the date of the Bid opening and award the Contract approximately within 7 days of receipt of properly executed Contract, bonds, and insurance documents.
- 14.3.** This contract will be deemed executed and effective only upon the signing of the Contract by the Mayor or his designee and approval as to form the City Attorney's Office.
- 15. SUBCONTRACT LIMITATIONS:** The Bidder's attention is directed to Standard Specifications for Public Works Construction, Section 3-2, "SELF-PERFORMANCE" in The GREENBOOK and as amended in the SSP which requires the Contractor to self-perform not less than the specified amount. Failure to comply with this requirement shall render the bid **non-responsive** and ineligible for award.
- 16. AVAILABILITY OF PLANS AND SPECIFICATIONS:** Contract Documents may be obtained by visiting the City's website: <http://www.sandiego.gov/cip/>. Plans and Specifications for this contract are also available for review in the office of the City Clerk or Purchasing & Contracting Department, Public Works Division.
- 17. ONLY ONE BID PER CONTRACTOR SHALL BE ACCEPTED:** No person, firm, or corporation shall be allowed to make, file, or be interested in more than one (1) Bid for the same work unless alternate Bids are called for. A person, firm or corporation who has submitted a sub-proposal to a Bidder, or who has quoted prices on materials to a Bidder, is not hereby disqualified from submitting a sub-proposal or quoting prices to other Bidders or from submitting a Bid in its own behalf. Any Bidder who submits more than one bid will result in the rejection of all bids submitted.
- 18. SAN DIEGO BUSINESS TAX CERTIFICATE:** The Contractor and Subcontractors, not already having a City of San Diego Business Tax Certificate for the work contemplated shall secure the appropriate certificate from the City Treasurer, Civic Center Plaza, First floor and submit to the Contract Specialist upon request or as specified in the Contract Documents. Tax Identification numbers for both the Bidder and the listed Subcontractors must be submitted on the City provided forms within these documents.
- 19. BIDDER'S GUARANTEE OF GOOD FAITH (BID SECURITY) FOR DESIGN-BID-BUILD CONTRACTS:**
- 19.1.** For bids \$250,000 and above, bidders shall submit Bid Security at bid time. Bid Security shall be in one of the following forms: a cashier's check, or a properly certified check upon some responsible bank; or an approved corporate surety bond payable to the City of San Diego for an amount of not less than 10% of the total bid amount.
- 19.2.** This check or bond, and the monies represented thereby, will be held by the City as a guarantee that the Bidder, if awarded the contract, will in good faith enter into the contract and furnish the required final performance and payment bonds.
- 19.3.** The Bidder agrees that in the event of the Bidder's failure to execute this contract and provide the required final bonds, the money represented by the cashier's or certified check will remain the property of the City; and the Surety agrees that it will pay to the City the damages, not exceeding the sum of 10% of the amount of the Bid, that the City may suffer as a result of such failure.

- 19.4. At the time of bid submission, bidders must upload and submit an electronic PDF copy of the aforementioned bid security. Whether in the form of a cashier's check, a properly certified check or an approved corporate surety bond payable to the City of San Diego, the bid security must be uploaded to the City's eBidding system. By 5PM, 1 working day after the bid opening date, all bidders must provide the City with the original bid security.
- 19.5. Failure to submit the electronic version of the bid security at the time of bid submission AND failure to provide the original by 5PM, 1 working day after the bid opening date shall cause the bid to be rejected and deemed **non-responsive**.

Original Bid Bond shall be submitted to:

Purchasing & Contracting Department, Public Works Division  
1200 3rd Ave., Suite 200, MS 56P  
San Diego, California, 92101

To the Attention of the Contract Specialist on the Front Page of this solicitation.

## 20. **AWARD OF CONTRACT OR REJECTION OF BIDS:**

- 20.1. This contract may be awarded to the lowest responsible and reliable Bidder.
- 20.2. Bidders shall complete ALL eBid forms as required by this solicitation. Incomplete eBids will not be accepted.
- 20.3. The City reserves the right to reject any or all Bids, to waive any informality or technicality in Bids received, and to waive any requirements of these specifications as to bidding procedure.
- 20.4. Bidders will not be released on account of their errors of judgment. Bidders may be released only upon receipt by the City within 3 Working Days of the bid opening, written notice from the Bidder which shows proof of honest, credible, clerical error of a material nature, free from fraud or fraudulent intent; and of evidence that reasonable care was observed in the preparation of the Bid.
- 20.5. A bidder who is not selected for contract award may protest the award of a contract to another bidder by submitting a written protest in accordance with the San Diego Municipal Code.
- 20.6. The City of San Diego will not discriminate in the award of contracts with regard to race, religion creed, color, national origin, ancestry, physical handicap, marital status, sex or age.
- 20.7. Each Bid package properly signed as required by these specifications shall constitute a firm offer which may be accepted by the City within the time specified herein.
- 20.8. The City reserves the right to evaluate all Bids and determine the lowest Bidder on the basis of the base bid and any proposed alternates or options as detailed herein.

## 21. **BID RESULTS:**

- 21.1. The availability of the bids on the City's eBidding system shall constitute the public announcement of the apparent low bidder. In the event that the apparent low bidder is subsequently deemed non-responsive or non-responsible, a notation of such will be

made on the eBidding system. The new ranking and apparent low bidder will be adjusted accordingly.

- 21.2.** To obtain the bid results, view the results on the City's web site, or request the results by U.S. mail and provide a self-addressed, stamped envelope. If requesting by mail, be sure to reference the bid name and number. The bid tabulations will be mailed to you upon their completion. The results will not be given over the telephone.

**22. THE CONTRACT:**

- 22.1.** The Bidder to whom award is made shall execute a written contract with the City of San Diego and furnish good and approved bonds and insurance certificates specified by the City within 14 days after receipt by Bidder of a form of contract for execution unless an extension of time is granted to the Bidder in writing.
- 22.2.** If the Bidder takes longer than 14 days to fulfill these requirements, then the additional time taken shall be added to the Bid guarantee. The Contract shall be made in the form adopted by the City, which includes the provision that no claim or suit whatsoever shall be made or brought by Contractor against any officer, agent, or employee of the City for or on account of anything done or omitted to be done in connection with this contract, nor shall any such officer, agent, or employee be liable hereunder.
- 22.3.** If the Bidder to whom the award is made fails to enter into the contract as herein provided, the award may be annulled and the Bidder's Guarantee of Good Faith will be subject to forfeiture. An award may be made to the next lowest responsible and reliable Bidder who shall fulfill every stipulation embraced herein as if it were the party to whom the first award was made.
- 22.4.** Pursuant to the San Diego City Charter section 94, the City may only award a public works contract to the lowest responsible and reliable Bidder. The City will require the Apparent Low Bidder to (i) submit information to determine the Bidder's responsibility and reliability, (ii) execute the Contract in form provided by the City, and (iii) furnish good and approved bonds and insurance certificates specified by the City within 14 Days, unless otherwise approved by the City, in writing after the Bidder receives notification from the City, designating the Bidder as the Apparent Low Bidder and formally requesting the above mentioned items.
- 22.5.** The award of the Contract is contingent upon the satisfactory completion of the above-mentioned items and becomes effective upon the signing of the Contract by the Mayor or designee and approval as to form by the City Attorney's Office. If the Apparent Low Bidder does not execute the Contract or submit required documents and information, the City may award the Contract to the next lowest responsible and reliable Bidder who shall fulfill every condition precedent to award. A corporation designated as the Apparent Low Bidder shall furnish evidence of its corporate existence and evidence that the officer signing the Contract and bond for the corporation is duly authorized to do so.

- 23. EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE OF WORK:** The Bidder shall examine carefully the Project Site, the Plans and Specifications, other materials as described in the Special Provisions, Section 3-9, "TECHNICAL STUDIES AND SUBSURFACE DATA", and the proposal forms (e.g., Bidding Documents). The submission of a Bid shall be conclusive

evidence that the Bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and scope of work, the quantities of materials to be furnished, and as to the requirements of the Bidding Documents Proposal, Plans, and Specifications.

**24. CITY STANDARD PROVISIONS:** This contract is subject to the following standard provisions. See The WHITEBOOK for details.

- 24.1.** The City of San Diego Resolution No. R-277952 adopted on May 20, 1991 for a Drug-Free Workplace.
- 24.2.** The City of San Diego Resolution No. R-282153 adopted on June 14, 1993 related to the Americans with Disabilities Act.
- 24.3.** The City of San Diego Municipal Code §22.3004 for Contractor Standards.
- 24.4.** The City of San Diego's Labor Compliance Program and the State of California Labor Code §§1771.5(b) and 1776.
- 24.5.** Sections 1777.5, 1777.6, and 1777.7 of the State of California Labor Code concerning the employment of apprentices by contractors and subcontractors performing public works contracts.
- 24.6.** The City's Equal Benefits Ordinance (EBO), Chapter 2, Article 2, Division 43 of The San Diego Municipal Code (SDMC).
- 24.7.** The City's Information Security Policy (ISP) as defined in the City's Administrative Regulation 90.63.

**25. PRE-AWARD ACTIVITIES:**

- 25.1.** The contractor selected by the City to execute a contract for this Work shall submit the required documentation as specified herein and in the Notice of Intent to Award. Failure to provide the information as specified may result in the Bid being rejected as **non-responsive**.
- 25.2.** The decision that bid is non-responsive for failure to provide the information required within the time specified shall be at the sole discretion of the City.

BOND NO. 7901148178  
PREMIUM: \$8,746.00  
PREMIUM IS FOR CONTRACT TERM  
AND IS SUBJECT TO ADJUSTMENT  
BASED ON FINAL CONTRACT PRICE

PROJECT: SOUTH CHOLLAS CREEK AND PARADISE CANYON OPEN  
SPACE WETLAND MITIGATION - PROJECT; L-23-2188-DBB-2

**PERFORMANCE BOND, LABOR AND MATERIALMEN'S BOND**

**FAITHFUL PERFORMANCE BOND AND LABOR AND MATERIALMEN'S BOND:**

Tri-Group Construction & Development, Inc., a corporation, as principal, and  
NATIONWIDE MUTUAL INSURANCE COMPANY, a corporation authorized to do  
business in the State of California, as Surety, hereby obligate themselves, their successors and assigns,  
jointly and severally, to The City of San Diego a municipal corporation in the sum of  
Nine Hundred Ninety Seven Thousand Nine Hundred Seventy Eight Dollars and Zero Cents  
(\$997,978.00) for the faithful performance of the annexed contract, and in the sum of Nine Hundred  
Ninety Seven Thousand Nine Hundred Seventy Eight Dollars and Zero Cents (\$997,978.00) for the  
benefit of laborers and materialmen designated below.

**Conditions:**

If the Principal shall faithfully perform the annexed contract with the City of San Diego,  
California, then the obligation herein with respect to a faithful performance shall be void; otherwise it  
shall remain in full force.

If the Principal shall promptly pay all persons, firms and corporations furnishing materials for  
or performing labor in the execution of this contract, and shall pay all amounts due under the  
California Unemployment Insurance Act then the obligation herein with respect to laborers and  
materialmen shall be void; otherwise it shall remain in full force.

The obligation herein with respect to laborers and materialmen shall inure to the benefit of  
all persons, firms and corporations entitled to file claims under the provisions of Article 2. Claimants,  
(iii) public works of improvement commencing with Civil Code Section 9100 of the Civil Code of the  
State of California.

Changes in the terms of the annexed contract or specifications accompanying same or  
referred to therein shall not affect the Surety's obligation on this bond, and the Surety hereby waives  
notice of same.

The Surety shall pay reasonable attorney's fees should suit be brought to enforce the  
provisions of this bond.

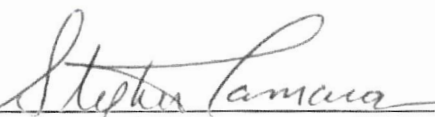
The Surety expressly agrees that the City of San Diego may reject any contractor or  
subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default  
by the Principal.

The Surety shall not utilize the Principal in completing the improvements and work specified  
in the Agreement in the event the City terminates the Principal for default.

PERFORMANCE BOND, LABOR AND MATERIALMEN'S BOND (continued)

THE CITY OF SAN DIEGO

APPROVED AS TO FORM

By: 

Mara W. Elliott, City Attorney  
By: 

Print Name: Stephen Samara  
Principal Contract Specialist  
Purchasing & Contracting Department

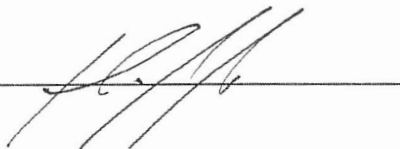
Print Name: Corrine Neuffer  
Deputy City Attorney

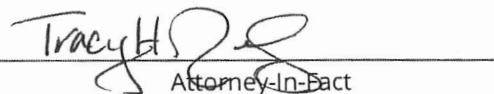
Date: 9/27/2023

Date: 9-28-23

TRI-GROUP CONSTRUCTION  
AND DEVELOPMENT GROUP, INC.  
CONTRACTOR

NATIONWIDE MUTUAL INSURANCE COMPANY  
SURETY

By: 

By:   
Attorney-In-Fact

Print Name: HANI ASSI, SECRETARY

Print Name: TRACY LYNN RODRIGUEZ, ATTORNEY-IN-FACT

Date: AUGUST 2, 2023

Date: AUGUST 2, 2023

500 NORTH BRAND BOULEVARD, SUITE 2000  
GLENDALE, CA 91203

Local Address of Sur

949/606-3819

Local Phone Number of Surety

PREMIUM IS FOR CONTRACT TERM  
AND IS SUBJECT TO ADJUSTMENT  
BASED ON FINAL CONTRACT PRICE  
\$8,746.00

Premium

7901148178

Bond Number

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

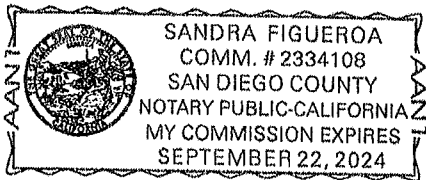
CIVIL CODE § 1189

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

State of California }  
County of SAN DIEGO

On 8/2/2023 before me, SANDRA FIGUEROA, NOTARY PUBLIC  
*Date Here Insert Name and Title of the Officer*  
personally appeared TRACY LYNN RODRIGUEZ  
*Name(s) of Signer(s)*

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



Place Notary Seal and/or Stamp Above

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

WITNESS my hand and official seal.

Signature [Handwritten Signature]  
*Signature of Notary Public*

**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_  
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_  
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: TRACY LYNN RODRIGUEZ Signer's Name: \_\_\_\_\_  
 Corporate Officer – Title(s): \_\_\_\_\_  Corporate Officer – Title(s): \_\_\_\_\_  
 Partner –  Limited  General  Partner –  Limited  General  
 Individual  Attorney in Fact  Individual  Attorney in Fact  
 Trustee  Guardian of Conservator  Trustee  Guardian of Conservator  
 Other: \_\_\_\_\_  Other: \_\_\_\_\_  
Signer is Representing: \_\_\_\_\_ Signer is Representing: \_\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

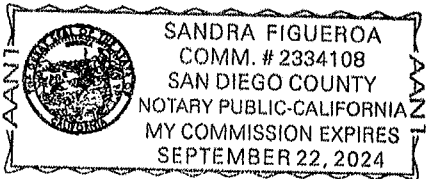
CIVIL CODE § 1189

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

State of California }  
County of SAN DIEGO

On 8/2/2023 before me, SANDRA FIGUEROA, NOTARY PUBLIC  
*Date Here Insert Name and Title of the Officer*  
personally appeared HANI ASSI  
*Name(s) of Signer(s)*

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



Place Notary Seal and/or Stamp Above

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

WITNESS my hand and official seal.

Signature [Handwritten Signature]  
*Signature of Notary Public*

**OPTIONAL**

*Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**  
 Title or Type of Document: \_\_\_\_\_  
 Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_  
 Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

|  |  |
|--|--|
| Signer's Name: <u>HANI ASSI</u>  | Signer's Name: _____   |
| <input checked="" type="checkbox"/> Corporate Officer – Title(s): <u>SECRETARY</u>                   | <input type="checkbox"/> Corporate Officer – Title(s): _____   |
| <input type="checkbox"/> Partner – <input type="checkbox"/> Limited <input type="checkbox"/> General | <input type="checkbox"/> Partner – <input type="checkbox"/> Limited <input type="checkbox"/> General |
| <input type="checkbox"/> Individual <input type="checkbox"/> Attorney in Fact                        | <input type="checkbox"/> Individual <input type="checkbox"/> Attorney in Fact                        |
| <input type="checkbox"/> Trustee <input type="checkbox"/> Guardian of Conservator                    | <input type="checkbox"/> Trustee <input type="checkbox"/> Guardian of Conservator                    |
| <input type="checkbox"/> Other: _____  | <input type="checkbox"/> Other: _____  |
| Signer is Representing: _____  | Signer is Representing: _____  |



Power of Attorney

KNOW ALL MEN BY THESE PRESENTS THAT:

Nationwide Mutual Insurance Company, an Ohio corporation

hereinafter referred to severally as the "Company" and collectively as "the Companies" does hereby make, constitute and appoint: HELEN MALONEY; JOHN G MALONEY; MARK D IATAROLA; SANDRA FIGUEROA; TRACY LYNN RODRIGUEZ;

each in their individual capacity, its true and lawful attorney-in-fact, with full power and authority to sign, seal, and execute on its behalf any and all bonds and undertakings, and other obligatory instruments of similar nature, in penalties not exceeding the sum of

UNLIMITED

and to bind the Company thereby, as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Company; and all acts of said Attorney pursuant to the authority given are hereby ratified and confirmed.

This power of attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the board of directors of the Company:

"RESOLVED, that the president, or any vice president be, and each hereby is, authorized and empowered to appoint attorneys-in-fact of the Company, and to authorize them to execute and deliver on behalf of the Company any and all bonds, forms, applications, memorandums, undertakings, recognizances, transfers, contracts of indemnity, policies, contracts guaranteeing the fidelity of persons holding positions of public or private trust, and other writings obligatory in nature that the business of the Company may require; and to modify or revoke, with or without cause, any such appointment or authority; provided, however, that the authority granted hereby shall in no way limit the authority of other duly authorized agents to sign and countersign any of said documents on behalf of the Company."

"RESOLVED FURTHER, that such attorneys-in-fact shall have full power and authority to execute and deliver any and all such documents and to bind the Company subject to the terms and limitations of the power of attorney issued to them, and to affix the seal of the Company thereto; provided, however, that said seal shall not be necessary for the validity of any such documents."

This power of attorney is signed and sealed under and by the following bylaws duly adopted by the board of directors of the Company.

Execution of Instruments. Any vice president, any assistant secretary or any assistant treasurer shall have the power and authority to sign or attest all approved documents, instruments, contracts, or other papers in connection with the operation of the business of the company in addition to the chairman of the board, the chief executive officer, president, treasurer or secretary; provided, however, the signature of any of them may be printed, engraved, or stamped on any approved document, contract, instrument, or other papers of the Company.

IN WITNESS WHEREOF, the Company has caused this instrument to be sealed and duly attested by the signature of its officer the 20th day of August, 2021.

[Handwritten signature of Antonio C. Albanese]

Antonio C. Albanese, Vice President of Nationwide Mutual Insurance Company

ACKNOWLEDGMENT

STATE OF NEW YORK COUNTY OF NEW YORK: ss

On this 20th day of August, 2021, before me came the above-named officer for the Company aforesaid, to me personally known to be the officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposes and says, that he is the officer of the Company aforesaid, that the seal affixed hereto is the corporate seal of said Company, and the said corporate seal and his signature were duly affixed and subscribed to said instrument by the authority and direction of said Company.



Stephanie Rubino McArthur  
Notary Public, State of New York  
No. 02MC8270117  
Qualified in New York County  
Commission Expires October 19, 2024

[Handwritten signature of Stephanie Rubino McArthur]

Notary Public  
My Commission Expires  
October 19, 2024

CERTIFICATE

I, Laura B. Guy, Assistant Secretary of the Company, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney issued by the Company; that the resolution included therein is a true and correct transcript from the minutes of the meetings of the boards of directors and the same has not been revoked or amended in any manner; that said Antonio C. Albanese was on the date of the execution of the foregoing power of attorney the duly elected officer of the Company, and the corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority of said board of directors; and the foregoing power of attorney is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto subscribed my name as Assistant Secretary, and affixed the corporate seal of said Company this 2ND day of AUGUST, 2023.

[Handwritten signature of Laura B. Guy]

Assistant Secretary

## ATTACHMENTS

**ATTACHMENT A**  
**SCOPE OF WORK**

## SCOPE OF WORK

1. **SCOPE OF WORK:** The South Chollas Creek and Paradise Canyon Open Space Wetland Mitigation Project consists of enhancement and rehabilitation of riparian resources located at two different locations (mitigation sites) in the City of San Diego (City), California: (1) the South Chollas Creek Mitigation Site is located south of Imperial Avenue, north of Oceanview Boulevard, and east of Marketplace Avenue along Chollas Creek and (2) the Paradise Canyon Open Space Mitigation Site is located south of Skyline Drive, north-northeast of Bullock Drive, and east and west of Deep Dell Road in Paradise Canyon. Enhancement and rehabilitation shall be conducted at both mitigation sites within designated treatment areas, with staging and removed material stockpiling conducted (as needed, per shot-hole borer best practices) at locations identified on the Construction Documents. The work schedule is defined by an installation phase and a post-construction 120-day plant establishment maintenance period (Project contract period).

Contractor services required of this scope of work include a pre-project survey and staking of treatment areas (both mitigation sites), cut to grade and remove all exotic and all diseased native vegetation (per shot-hole borer best practices) from Project treatment areas (both mitigation sites), treat and stockpile removed diseased vegetation from the Project treatment areas at Project staging areas (per shot-hole borer best practices) (both mitigation sites), remove and dispose of trash and inorganic debris from Project treatment areas (both mitigation sites), conduct regular weed control from Project treatment areas for the duration of the contract period, install native container plants in rehabilitation areas (both mitigation sites), hydroseed enhancement and rehabilitation treatment areas (both mitigation sites), install temporary irrigation system (Paradise Canyon Open Space Mitigation Site only), hand water container plants through the contract period (Chollas Creek Mitigation Site only), provide truck watering for container plants at installation and through the contract period (Paradise Canyon Open Space Mitigation Site only). Upon completion of installation, conduct 120-day maintenance period, and dispose of stockpiled vegetation (as-needed) following completion of 120-day maintenance period (or as directed by City). The Contractor shall also be required to develop a Water Pollution Control Plan (WPCP) and install and maintain erosion control best management practices (BMPs) per the requirements of the WPCP.

Additional services required from this scope of work includes providing qualified biological and cultural monitoring for the duration of the Project contract period. Biological services shall include monitoring and reporting and assuring compliance with Project avoidance and minimization measures. Cultural monitoring shall include development of Cultural Resources and Treatment Plan (CRTP) and monitoring, as required by the CRTP.

**1.1.** The Work shall be performed in accordance with:

- 1.1.1.** The Notice Inviting Bids, South Chollas Creek Channel Mitigation Project Plans numbered **0100930-01-D** through **0100930-05-D**, and Paradise Canyon Open Space Mitigation Project Plans numbered **0100931-01-D** through **0100931-16-D**, inclusive.

2. **LOCATION OF WORK:** The location of the Work is as follows:

See **Appendix E - Vicinity Map**

3. **CONTRACT TIME:** The Contract Time for completion of the Work, including the Plant Establishment Period, shall be **195 Working Days**.

**ATTACHMENT B**

**RESERVED**

**ATTACHMENT C**  
**EQUAL OPPORTUNITY CONTRACTING PROGRAM**

## EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP)

### SECTION A - GENERAL REQUIREMENTS

#### A. INTRODUCTION.

1. This document sets forth the following specifications:
  - a) The City's general EOCP requirements for all Construction Contracts.
  - b) Special Provisions for Contracts subject to SLBE and ELBE requirements only.
2. Additional requirements may apply for state or federally funded projects.
3. These requirements shall be included as Contract provisions for all Subcontracts.
4. The City specified forms, instructions, and guides are available for download from the EOCP's web site at: <http://www.sandiego.gov/eoc/forms/index.shtml>

#### B. GENERAL.

1. The City of San Diego promotes equal employment and subcontracting opportunities.
2. The City is committed to ensuring that taxpayer dollars spent on public Contracts are not paid to businesses that practice discrimination in employment or subcontracting.
3. The City encourages all companies seeking to do business with the City to share this commitment.

#### C. DEFINITIONS.

1. For the purpose of these requirements: Terms "Bid" and "Proposal", "Bidder" and "Proposer", "Subcontractor" and "Subconsultant", "Contractor" and "Consultant", "Contractor" and "Prime Contractor", "Consultant" and "Professional Service Provider", "Suppliers" and "Vendors", "Suppliers" and "Dealers", and "Suppliers" and "Manufacturers" may have been used interchangeably.
2. The following definitions apply:
  - a) **Emerging Business Enterprise (EBE)** - A for-profit business that is independently owned and operated; that is not a subsidiary or franchise of another business and whose gross annual receipts do not exceed the amount set by the City Manager and that meets all other criteria set forth in regulations implementing Municipal Code Chapter 2, Article 2, Division 36. The City Manager shall review the threshold amount for EBEs on an annual basis and adjust as necessary to reflect changes in the marketplace.
  - b) **Emerging Local Business Enterprise (ELBE)** - A Local Business Enterprise that is also an Emerging Business Enterprise.



- c) **Minority Business Enterprise (MBE)** - A certified business that is at least fifty-one percent (51%) owned by one or more minority individuals, or, in the case of a publicly owned business at least fifty-one percent (51%) of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more minorities owners. Minorities include the groups with the following ethnic origins: African, Asian Pacific, Asian Subcontinent, Hispanic, Native Alaskan, Native American, and Native Hawaiian.
- d) **Women Business Enterprise (WBE)** - A certified business that is at least fifty-one percent (51%) owned by a woman or women, or, in the case of a publicly owned business at least fifty-one percent (51%) of the stock is owned by one or more women; and (2) whose daily business operations are managed and directed by one or more women owners.
- e) **Disadvantaged Business Enterprise (DBE)** - a certified business that is at least fifty-one percent (51%) owned by socially and economically disadvantaged individuals, or, in the case of a publicly owned business at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and (2) whose daily business operations are managed and directed by one or more socially and economically disadvantaged owners.
- f) **Disabled Veteran Business Enterprise (DVBE)** - A certified business that is at least fifty-one percent (51%) owned by one or more disabled veterans; and (2) business operations must be managed and controlled by one or more disabled veterans. Disabled Veteran is a veteran of the U.S. military, naval, or air service; the veteran must have a service-connected disability of at least 10% or more; and the veteran must reside in California.
- g) **Other Business Enterprise (OBE)** - Any business which does not otherwise qualify as a Minority, Woman, Disadvantaged, or Disabled Veteran Business Enterprise.
- h) **Small Business Enterprise (SBE)** - A for-profit business that is independently owned and operated; that is not a subsidiary or franchise of another business and whose gross annual receipts do not exceed the amount set by the City Manager and that meets all other criteria set forth in regulations implementing Municipal Code Chapter 2, Article 2, Division 36. The City Manager shall review the threshold amount for SBEs on an annual basis and adjust as necessary to reflect changes in the marketplace. A business certified as a Micro Business (MB) or a Disabled Veteran Business Enterprise (DVBE) by the State of California and that has provided proof of such certification to the City Manager shall be deemed to be an SBE.

- i) **Small Local Business Enterprise (SLBE)** - A Local Business Enterprise that is also a Small Business Enterprise.

**D. CITY'S EQUAL OPPORTUNITY COMMITMENT.**

**1. Nondiscrimination in Contracting Ordinance.**

- a) You, your Subcontractors, and Suppliers shall comply with the requirements of the City's Nondiscrimination in Contracting Ordinance, San Diego Municipal Code §§22.3501 through 22.3517.

You shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. You shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. You understand and agree that the violation of this clause shall be considered a material breach of the Contract and may result in Contract termination, debarment, or other sanctions.

You shall include the foregoing clause in all Contracts between you and your Subcontractors and Suppliers.

- b) **Disclosure of Discrimination Complaints.** As part of its Bid or Proposal, you shall provide to the City a list of all instances within the past 10 years where a complaint was filed or pending against you in a legal or administrative proceeding alleging that you discriminated against your employees, Subcontractors, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
- c) Upon the City's request, You agree to provide to the City, within 60 Calendar Days, a truthful and complete list of the names of all Subcontractors and Suppliers that you have used in the past 5 years on any of your Contracts that were undertaken within the San Diego County, including the total dollar amount paid by you for each Subcontract or supply Contract.
- d) You further agree to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance, Municipal Code §§22.3501 through 22.3517. You understand and agree that violation of this clause shall be considered a material breach of the Contract and may result in remedies being ordered against you up to and including contract termination, debarment, and other sanctions for the violation of the provisions of the Nondiscrimination in Contracting Ordinance. You further understand and agree that the procedures, remedies, and sanctions provided for in the Nondiscrimination in Contracting Ordinance apply only to violations of the Ordinance.

**E. EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM.**

1. You, your Subcontractors, and Suppliers shall comply with the City's Equal Employment Opportunity Outreach Program, San Diego Municipal Code §§22.2701 through 22.2707.

You shall not discriminate against any employee or applicant for employment on any basis prohibited by law. You shall provide equal opportunity in all employment practices. You shall ensure that your Subcontractors comply with this program. Nothing in this section shall be interpreted to hold you liable for any discriminatory practices of your Subcontractors.

You shall include the foregoing clause in all Contracts between you and your Subcontractors and Suppliers.

2. If the Contract is competitively solicited, the selected Bidder shall submit a Work Force Report (Form BB05) within 10 Working Days after receipt by the Bidder to the City for approval as specified in the Notice of Intent to Award letter.
3. The selected Bidder shall submit an Equal Employment Opportunity Plan if a Work Force Report is submitted and if the City determines that there are under-representations when compared to County Labor Force Availability data.
4. If the selected Bidder submits an Equal Employment Opportunity Plan, it shall include the following assurances:
  - a) You shall maintain a working environment free of discrimination, harassment, intimidation, and coercion at all Sites and in all facilities at which your employees are assigned to Work.
  - b) You shall review your EEO Policy annually with all on-Site supervisors involved in employment decisions.
  - c) You shall disseminate and review your EEO Policy with all employees at least once a year, post the policy statement and EEO posters on all company bulletin boards and job sites, and document every dissemination, review, and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings.
  - d) You shall review, at least annually, all supervisors' adherence to and performance under the EEO Policy and maintain written documentation of these reviews.
  - e) You shall discuss your EEO Policy Statement with Subcontractors with whom you anticipate doing business, including the EEO Policy Statement in your Subcontracts, and provide such documentation to the City upon request.

- f) You shall document and maintain a record of all Bid solicitations and outreach efforts to and from Subcontractors, contractor associations, and other business associations.
- g) You shall disseminate your EEO Policy externally through various media, including the media of people of color and women, in advertisements to recruit. Maintain files documenting these efforts and provide copies of these advertisements to the City upon request.
- h) You shall disseminate your EEO Policy to union and community organizations.
- i) You shall provide immediate written notification to the City when any union referral process has impeded your efforts to maintain your EEO Policy.
- j) You shall maintain a current list of recruitment sources, including those outreaching to people of color and women, and provide written notification of employment opportunities to these recruitment sources with a record of the organizations' responses.
- k) You shall maintain a current file of names, addresses and phone numbers of each walk-in applicant, including people of color and women, and referrals from unions, recruitment sources, or community organizations with a description of the employment action taken.
- l) You shall encourage all present employees, including people of color and women employees, to recruit others.
- m) You shall maintain all employment selection process information with records of all tests and other selection criteria.
- n) You shall develop and maintain documentation for on-the-job training opportunities, participate in training programs, or both for all of your employees, including people of color and women, and establish apprenticeship, trainee, and upgrade programs relevant to your employment needs.
- o) You shall conduct, at least annually, an inventory and evaluation of all employees for promotional opportunities and encourage all employees to seek and prepare appropriately for such opportunities.
- p) You shall ensure that the company's working environment and activities are non-segregated except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes.

**F. SUBCONTRACTING.**

1. The City encourages all eligible business enterprises to participate in City contracts as a Contractor, Subcontractor, and joint venture partner with you, your Subcontractors, or your Suppliers. You are encouraged to take positive steps to diversify and expand your Subcontractor solicitation base and to offer subcontracting opportunities to all eligible business firms including SLBEs, ELBEs, MBEs, WBEs, DBEs, DVBES, and OBEs.
2. For Subcontractor participation level requirements, see the Contract Documents where applicable.
3. For the purposes of achieving the mandatory Subcontractor participation percentages, City percentage calculations will not account for the following:
  - a) "Field Orders" and "City Contingency" Bid items.
  - b) Alternate Bid items.
  - c) Allowance Bid items designated as "EOC Type II".
4. Allowance Bid items designated as "EOC Type I" will be considered as part of the Base Bid and will be included in the percentage calculation.
5. Each joint venture partner shall be responsible for a clearly defined Scope of Work. In addition, an agreement shall be submitted and signed by all parties identifying the extent to which each joint venture partner shares in ownership, control, management, risk, and profits of the joint venture.

**G. LISTS OF SUBCONTRACTORS AND SUPPLIERS.**

1. You shall comply with the Subletting and Subcontracting Fair Practices Act, Public Contract Code §§4100 through 4113, inclusive.
2. You shall list all Subcontractors who will receive more than 0.5% of the total Bid amount or \$10,000, whichever is greater on the form provided in the Contract Documents (Subcontractors list).
3. The Subcontractors list shall include the Subcontractor's name, telephone number including area code, physical address, Scope of Work, the dollar amount of the proposed Subcontract, the California contractor license number, the Public Works contractor registration number issued pursuant to Section 1725.5 of the Labor Code, and the Subcontractor's certification status with the name of the certifying agency.
4. The listed Subcontractor shall be appropriately licensed pursuant to Contractor License Laws.
5. For Design-Build Contracts, refer to the RFQ and RFP for each Project or Task Order.

**H. SUBCONTRACTOR AND SUPPLIER SUBSTITUTIONS.**

1. Listed Subcontractors and Suppliers shall not be substituted without the Express authorization of the City or its duly authorized agent.

2. Request for Subcontractor or Supplier substitution shall be made in writing to Purchasing & Contracting Department, Public Works Division, Attention Contract Specialist, 1200 3rd Ave., Suite 200, MS 56P, San Diego, CA 92101 with a copy to the Engineer.
3. The request shall include a thorough explanation of the reason(s) for the substitution, including dollar amounts and a letter from each substituted Subcontractor or Supplier stating that they (the Subcontractors or Suppliers) release all interest in working on the Project and written confirmation from the new Subcontractor or Supplier stating that they agree to work on the Project along with the dollar value of the Work to be performed.
4. Written approval of the substitution request shall be received by you or from the City or its authorized officer prior to any unlisted Subcontractor or Supplier performing Work on the Project.
5. Substitution of Subcontractors and Suppliers without authorization shall subject you to those penalties set forth in Public Contract Code §4110.
6. Requests for Supplier substitution shall be made in writing at least 10 Days prior to the provision of materials, supplies, or services by the proposed Supplier and shall include proof of written notice to the originally listed Supplier of the proposed substitution.
7. A Contractor whose Bid is accepted shall not:
  - a) Substitute a person as Subcontractor or Supplier in place of the Subcontractor or Supplier listed in the original bid, except that the City, or it's duly authorized officer, may consent to the substitution of another person as a Subcontractor or Supplier in any of the following situations:
    - i. When the Subcontractor or Supplier listed in the Bid, after having a reasonable opportunity to do so, fails or refuses to execute a written Contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based upon the general terms, conditions, plans, and specifications for the project involved or the terms of the subcontractor's written bid, is presented to the subcontractor by the prime contractor.
    - ii. When the listed Subcontractor or Supplier becomes insolvent or the subject of an order for relief in bankruptcy.
    - iii. When the listed Subcontractor or Supplier fails or refuses to perform his or her subcontract.
    - iv. When the listed Subcontractor fails or refuses to meet bond requirements as set forth in Public Contract Code §4108.
    - v. When you demonstrate to the City or it's duly authorized officer, subject to the provisions set forth in Public Contract Code §4107.5, that the name of the Subcontractor was listed as the result of an inadvertent clerical error.

- vi. When the listed Subcontractor is not licensed pursuant to Contractor License Law.
  - vii. When the City, or its duly authorized officer, determines that the Work performed by the listed Subcontractor or that the materials or supplies provided by the listed Supplier are substantially unsatisfactory and not in substantial accordance with the Plans and specifications or that the Subcontractor or Supplier is substantially delaying or disrupting the progress of the Work.
  - viii. When the listed Subcontractor is ineligible to work on a public works project pursuant to §§1777.1 or 1777.7 of the Labor Code.
  - ix. When the City or its duly authorized agent determines that the listed Subcontractor is not a responsible contractor.
- b) Permit a Contract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original Subcontractor, Supplier listed in the original Bid without the consent of the City, or its duly authorized officer.
  - c) Other than in the performance of "Change Orders" causing changes or deviations from the Contract, sublet or subcontract any portion of the Work, or contract for materials or supplies in excess of 0.5% of your total bid or \$10,000, whichever is greater, as to which his or her original Bid did not designate a Subcontractor or Supplier.
8. Following receipt of notice from you of the proposed substitution of a Subcontractor or Supplier, the listed Subcontractor or Supplier who has been so notified shall have 5 Working Days within which to submit written objections to the substitution to the Contract Specialist with a copy to the Engineer. Failure to file these written objections shall constitute the listed Subcontractor or Supplier's consent to the substitution. If written objections are filed, the City shall give notice in writing of at least 5 Working Days to the listed Subcontractor or Supplier of a hearing by the City on your request for substitution.

**I. PROMPT PAYMENT.**

- 1. You or your Subcontractors shall pay to any subcontractor, not later than 7 Calendar Days of receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed you on account of the Work performed by the Subcontractors, to the extent of each Subcontractor's interest therein. In cases of Subcontractor performance deficiencies, you shall make written notice of any withholding to the Subcontractor with a copy to the Contracts Specialist. Upon correction of the deficiency, you shall pay the Subcontractor the amount previously withheld within 14 Calendar Days after payment by the City.

2. Any violation of California Business and Professions Code, §7108.5 concerning prompt payment to Subcontractors shall subject the violating Contractor or Subcontractor to the penalties, sanctions, and other remedies of that section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to you or your Subcontractor in the event of a dispute involving late payment or nonpayment by the Prime Contractor, deficient subcontract performance, or noncompliance by a Subcontractor.

**J. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS.**

1. The City will hold retention from you and will make prompt and regular incremental acceptances of portions, as determined by the Engineer, of the Work and pay retention to you based on these acceptances.
2. You or your Subcontractors shall return all monies withheld in retention from a Subcontractor within 30 Calendar Days after receiving payment for Work satisfactorily completed and accepted including incremental acceptances of portions of the Work by the City.
3. Federal law (49CFR26.29) requires that any delay or postponement of payment over 30 Calendar Days may take place only for good cause and with the City's prior written approval. Any violation of this provision by you or your Subcontractor shall subject you or your Subcontractor to the penalties, sanctions, and other remedies specified in §7108.5 of the Business and Professions Code.
4. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to you or your Subcontractor in the event of a dispute involving late payment or nonpayment by you, deficient subcontract performance, or noncompliance by a Subcontractor.

**K. CERTIFICATION.**

1. The City accepts certifications of DBE, DVBE, MBE, SDBE, SWBE, or WBE by any of the following certifying agencies:
  - a) Current certification by the State of California Department of Transportation (CALTRANS) as DBE, SDBE, or SWBE.
  - b) Current MBE, WBE, or DVBE certification from the California Public Utilities Commission.
  - c) DVBE certification is received from the State of California's Department of General Services, Office of Small and Minority Business.
  - d) Current certification by the City of Los Angeles as DBE, WBE, or MBE.
  - e) Subcontractors' valid proof of certification status (copies of MBE, WBE, DBE, or DVBE certifications) shall be submitted as required.



**L. CONTRACT RECORDS AND REPORTS.**

1. You shall maintain records of all subcontracts and invoices from your Subcontractors and Suppliers for work on this project. Records shall show name, telephone number including area code, and business address of each Subcontractor, Supplier, and joint venture partner, and the total amount actually paid to each firm. Project relevant records, regardless of tier, may be periodically reviewed by the City.
2. You shall retain all records, books, papers, and documents pertinent to the Contract for a period of not less than 5 years after Notice of Completion and allow access to said records by the City's authorized representatives.
3. You shall submit the following reports using the City's web-based contract compliance (Prism® portal):
  - a. **Monthly Payment.** You shall submit Monthly Payment Reporting by the 10<sup>th</sup> day of the subsequent month. Incomplete and/or delinquent reporting may cause payment delays, non-payment of invoices, or both.
4. The records maintained under item 1, described above, shall be consolidated into a Final Summary Report, certified as correct by an authorized representative of the Contractor. The Final Summary Report shall include all subcontracting activities and be sent to the EOCP Program Manager prior to Acceptance. Failure to comply may result in assessment of liquidated damages or withholding of retention. The City will review and verify 100% of subcontract participation reported in the Final Summary Report prior to approval and release of final retention to you. In the event your Subcontractors are owed money for completed Work, the City may authorize payment to subcontractor via a joint check from the withheld retention.

## EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP)

### SECTION B - SLBE-ELBE SUBCONTRACTING REQUIREMENTS

**THESE SPECIAL PROVISIONS SUPPLEMENT THE POLICIES AND REQUIREMENTS ESTABLISHED BY THE CITY OF SAN DIEGO EQUAL OPPORTUNITY CONTRACTING PROGRAM SPECIFIED IN THE CITY'S GENERAL EOCP REQUIREMENTS.**

#### **A. GENERAL.**

1. It is the City's policy to encourage greater availability, capacity development, and contract participation by SLBE and ELBE firms in City contracts. This policy is, in part, intended to further the City's compelling interest to stimulate economic development through the support and empowerment of the local community, ensure that it is neither an active nor passive participant in marketplace discrimination, and promote equal opportunity for all segments of the contracting community.
2. The City is committed to maximizing subcontracting opportunities for all qualified and available firms.
3. This policy applies to City-funded construction contracts. Bidders shall be fully informed of this policy as set forth in these specifications. Mandatory or voluntary subcontracting percentages, Bid Discounts, and restricted competitions are specified in the Contract Documents.
4. You shall make subcontracting opportunities available to a broad base of qualified Subcontractors and shall achieve the minimum SLBE-ELBE Subcontractor participation identified for your project.
5. Failure to subcontract the specified minimum (mandatory) percentages of the Bid to qualified available SLBE-ELBE Subcontractors will cause a Bid to be rejected as non-responsive unless the Bidder has demonstrated compliance with the affirmative steps as specified in the City's document titled "Small Local Business (SLBE) Program, INSTRUCTIONS FOR BIDDERS COMPLETING THE GOOD FAITH EFFORT SUBMITTAL" and has submitted documentation showing that all required positive efforts were made prior to the Bid submittal due date. The required Good Faith Effort (GFE) documentation shall be submitted to the Contract Specialist. The instructions for completing the good faith effort submittal can be found on the City's website:  
<https://www.sandiego.gov/sites/default/files/legacy/eoc/pdf/slbegeinst.pdf>
6. The current list of certified SLBE-ELBE firms and information for completing the GFE submittal can be found on the City's EOC Department website:  
<http://www.sandiego.gov/eoc/programs/slbe.shtml>
7. These requirements may be waived, at the City's sole discretion, on projects deemed inappropriate for subcontracting participation.

**B.**

**DEFINITIONS.**

1. The following definitions shall be used in conjunction with these specifications:

- a) **Bid Discount** – Additional inducements or enhancements in the bidding process that are designed to increase the chances for the selection of SLBE firms in competition with other firms.
- b) **Commercially Useful Function** – An SLBE-ELBE performs a commercially useful function when it is responsible for the execution of the Work and is carrying out its responsibilities by actually performing, managing, and supervising the Work involved. To perform a commercially useful function, the SLBE-ELBE shall also be responsible, with respect to materials and supplies used on the Contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself.

To determine whether an SLBE-ELBE is performing a commercially useful function, an evaluation will be performed of the amount of Work subcontracted, normal industry practices, whether the amount the SLBE-ELBE firm is to be paid under the contract is commensurate with the Work it is actually performing and the SLBE-ELBE credit claimed for its performance of the Work, and other relevant factors. Specifically, an SLBE-ELBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of meaningful and useful SLBE-ELBE participation, when in similar transactions in which SLBE-ELBE firms do not participate, there is no such role performed.

- c) **Good Faith Efforts (GFE)** – Documentation of the Bidder’s intent to comply with SLBE Program goals and procedures included in the City’s SLBE Program, Instructions for Completing Good Faith Effort Submittal available from the City’s EOCP website or the Contract Specialist.
- d) **Independently Owned, Managed, and Operated** – Ownership of a SLBE-ELBE firm shall be direct, independent, and by individuals only. Business firms that are owned by other businesses or by the principals or owners of other businesses that cannot themselves qualify under the SLBE-ELBE eligibility requirements shall not be eligible to participate in the Program. Moreover, the day-to-day management of the SLBE-ELBE firm shall be direct and independent of the influence of any other businesses that cannot themselves qualify under the SLBE-ELBE eligibility requirements.
- e) **Joint Venture** – An association of two or more persons or business entities that is formed for the single purpose of carrying out a single defined business enterprise for which purpose they combine their capital, efforts, skills, knowledge, or property. Joint ventures shall be established by written agreement to qualify for this program.

- f) **Local Business Enterprise (“LBE”)** – A firm having a Principal Place of Business and a Significant Employment Presence in San Diego County, California that has been in operation for 12 consecutive months and a valid business tax certificate. This definition is subsumed within the definition of Small Local Business Enterprise.
- g) **Minor Construction Program** – A program developed for bidding exclusively among SLBE-ELBE Construction firms.
- h) **Principal Place of Business** – A location wherein a firm maintains a physical office and through which it obtains no less than 50% of its overall customers or sales dollars.
- i) **Protégé** – A firm that has been approved and is an active participant in the City’s Mentor-Protégé Program and that has signed the required program participation agreement and has been assigned a mentor.
- j) **Significant Employee Presence** – No less than 25% of a firm’s total number of employees are domiciled in San Diego County.

**C. SUBCONTRACTOR PARTICIPATION.**

1. For the purpose of satisfying subcontracting participation requirements, only 1<sup>st</sup> tier SLBE–ELBE Subcontractors will be recognized as participants in the Contract according to the following criteria:
  - a) For credit to be allowed toward a respective participation level, all listed SLBE-ELBE firms shall have been certified by the Bid due date.
  - b) The Subcontractor shall perform a commercially useful function for credit to be allowed toward subcontractor participation levels. The Subcontractor shall be required by you to be responsible for the execution of a distinct element of the Work and shall carry out its responsibility by actually performing and supervising its own workforce.
  - c) If the Bidder is seeking the recognition of materials, supplies, or both towards achieving any mandatory subcontracting participation level, the Bidder shall indicate on Form AA40 – Named Equipment/Material Supplier List with the Bid the following:
    - i. If the materials or supplies are obtained from a SLBE-ELBE manufacturer, the Bidder will receive 100% of the cost of the materials or supplies toward SLBE participation. For the purposes of counting SLBE-ELBE participation, a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
    - ii. If the materials or supplies are obtained from a SLBE-ELBE supplier, the Bidder will receive 60% of the cost of the materials or supplies toward SLBE participation. For the

purposes of counting SLBE-ELBE participation a Supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a supplier, the firm shall be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a supplier in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the person both owns and operates distribution equipment for the products. Any supplementing of the suppliers' own distribution equipment shall be by a long-term lease agreement and shall not be on an ad hoc or contract-by-contract basis.

iii. If the materials or supplies are obtained from a SLBE-ELBE, which is neither a manufacturer nor a supplier, the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, fees or transportation charges for the delivery of materials or supplies required on a job site will be counted toward SLBE-ELBE participation, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. No portion of the cost of the materials and supplies themselves will be counted toward SLBE-ELBE participation.

d) If the Bidder is seeking the recognition of SLBE-ELBE Trucking towards achieving any mandatory subcontracting participation level, the Bidder shall indicate it on Form AA35 – List of Subcontractors with the Bid. The following factors will be evaluated in determining the credit to be allowed toward the respective participation level:

i. The SLBE-ELBE shall be responsible for the management and supervision of the entire trucking operation for which it is getting credit on a particular Contract and there shall not be a contrived arrangement for the purpose of counting SLBE-ELBE participation.

ii. The SLBE-ELBE shall itself own and operate at least 1 fully licensed, insured, and operational truck used on the Contract.

- iii. The SLBE-ELBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
- iv. The SLBE-ELBE may lease trucks from another SLBE-ELBE firm including an owner-operator who is certified as a SLBE-ELBE. The SLBE-ELBE who leases trucks from another SLBE-ELBE receives credit for the total value of the transportation services the lessee SLBE-ELBE provides on the contract.
- v. The SLBE-ELBE may also lease trucks from a non-SLBE-ELBE firm, including an owner-operator. The SLBE-ELBE who leases trucks from a non-SLBE-ELBE is entitled to credit for the total value of transportation services provided by non-SLBE-ELBE lessees not to exceed the value of transportation services provided by SLBE-ELBE owned trucks on the contract. Additional participation by non-SLBE-ELBE lessees receive credit only for the fee or commission it receives as a result of the lease arrangement.
- vi. A lease shall indicate that the SLBE-ELBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the SLBE-ELBE so long as the lease gives the SLBE-ELBE absolute priority for use of the leased truck.

**D. SLBE-ELBE SUBCONTRACTOR PARTICIPATION PERCENTAGES.**

1. Contracts valued at \$1,500,000 and above will be considered Major Public Works Contracts and will include a mandatory Subcontractor participation requirement for SLBE-ELBE firms.
  - a) The Bidder shall achieve the mandatory Subcontractor participation requirement or demonstrate GFE.
  - b) The Bidders shall indicate the participation on Forms AA35 - List of Subcontractors and AA40 - Named Equipment/Material Supplier List as applicable regardless of the dollar value.
  - c) An SLBE-ELBE Bidder may count its own participation toward achieving the mandatory goal as long as the SLBE-ELBE Bidder performs 51% of the Contract Price.
2. Contracts Valued over \$1,000,000 and under \$1,500,000 will also be considered Major Public Works Contracts and will include the mandatory subcontractor participation requirements described above and the following:
  - a) 5% bid discount for SLBE-ELBE firms.
  - b) Non-certified Contractor will receive 5% bid discount if they achieve the specified mandatory Subcontracting participations.

- c) Bid discounts shall not apply if the award will result in a total contract cost of \$50,000 in excess of the apparent lowest Bid.
  - d) In the event of a tie bid between a SLBE-ELBE Bidder and a non-SLBE-ELBE Bidder, the SLBE-ELBE Bidder will be awarded the Contract.
  - e) In the event of a tie bid between a discounted Bid and a non-discounted Bid, the discounted Bid will be awarded the Contract.
3. Contracts valued over \$500,000 up to \$1,000,000 will be considered Minor Public Works Contracts and will be awarded through a competitive Bid process open only to City certified SLBE-ELBE firms. If there are no bidders or no responsible bidders, the Contract will be made available to all Bidders and will be subject to requirements listed in items 1 and 2 for Major Public Works Contracts above.
  4. Contracts valued at \$500,000 and below will also be considered Minor Public Works Contracts and will be awarded through a competitive bid process open only to City certified ELBEs unless there are less than 2 firms available at which it will be awarded through a competitive process open only to the City certified SLBE-ELBE firms. If there are no bidders or no responsible bidders, the Contract will be made available to all Bidders and subject to requirements listed in items 1 and 2 for Major Public Works Contracts above.

**E. JOINT VENTURES.**

1. The City may allow for Joint Venture bid discounts on some Contracts. Contracts that allow for Joint Venture bid discounts will be designated in Bid documents. A firm that is bidding or competing for City Contracts may partner with a certified SLBE or ELBE to compete for Contracts as a Joint Venture.
2. A Joint Venture shall be between two entities with the same discipline or license as required by the City. Joint ventures will receive bid discounts depending on the SLBE or ELBE percentage of participation. To be eligible for a discount, a Joint Venture Agreement shall be approved by the City at the time of Bid submittal. The maximum allowable discount shall be 5%. The parties shall agree to enter in the relationship for the life of the projects.
3. Joint Venture shall submit a Joint Venture Management Plan, a Joint Venture Agreement, or both at least 2 weeks prior to the Bid due date. Copies of the Joint Venture applications are available upon request to the Contract Specialist. Each agreement or management plan shall include the following:
  - a) Detailed explanation of the financial contribution for each partner.
  - b) List of personnel and equipment used by each partner.
  - c) Detailed breakdown of the responsibilities of each partner.
  - d) Explanation of how the profits and losses will be distributed.
  - e) Description of the bonding capacity of each partner.
  - f) Management or incentive fees available for any one of the partners (if any).

4. Each Joint Venture partner shall perform a Commercially Useful Function. An SLBE or ELBE that relies on the resources and personnel of a non-SLBE or ELBE firm will not be deemed to perform a Commercially Useful Function.
5. Each Joint Venture partner shall possess licenses appropriate for the discipline for which a proposal is being submitted. If a Joint Venture is bidding on a single trade project, at the time of bid submittal, each Joint Venture partner shall possess the requisite specialty license for that trade bid.
6. The SLBE or ELBE partner shall clearly define the portion of the Work to be performed. This Work shall be of the similar type of Work the SLBE or ELBE partner performs in the normal course of its business. The Joint Venture Participation Form shall specify the Bid items to be performed by each individual Joint Venture partner. Lump sum Joint Venture participation shall not be acceptable.
7. Responsibilities of the SLBE or ELBE Joint Venture Partner:
  - a) The SLBE or ELBE partner shall share in the control, management responsibilities, risks and profits of the Joint Venture in proportion with the level of participation in the project.
  - b) The SLBE or ELBE partner shall perform Work that is commensurate with its experience.
  - c) The SLBE or ELBE partner shall use its own employees and equipment to perform its portion of the Work.
  - d) The Joint Venture as a whole shall perform Bid items that equal or exceed 50% of the Contract Price, excluding the cost of manufactured items, in order to be eligible for a Joint Venture discount.

**F. MAINTAINING PARTICIPATION LEVELS.**

1. Credit and preference points are earned based on the level of participation proposed prior to the award of the Contract. Once the Project begins you shall achieve and maintain the SLBE-ELBE participation levels for which credit and preference points were earned. You shall maintain the SLBE-ELBE percentages indicated at the Award of Contract and throughout the Contract Time.
2. If the City modifies the original Scope of Work, you shall make reasonable efforts to maintain the SLBE-ELBE participation for which creditor preference points were earned. If participation levels will be reduced, approval shall be received from the City prior to making changes.
3. You shall notify and obtain written approval from the City in advance of any reduction in subcontract scope, termination, or substitution for a designated SLBE-ELBE Subcontractor. Failure to do so shall constitute a material breach of the Contract.
4. If you fail to maintain the SLBE-ELBE participation listed at the time the Contract is awarded and have not received prior approval from the City, the City may declare you in default and will be considered grounds for debarment under Chapter 2, Article 2, Division 8, of the San Diego Municipal Code.



**G. SUBCONTRACTING EFFORTS REVIEW AND EVALUATION.**

1. Documentation of your subcontracting efforts will be reviewed by EOCP to verify that you made subcontracting opportunities available to a broad base of qualified Subcontractors, negotiated in good faith with interested Subcontractors, and did not reject any bid for unlawful discriminatory reasons. The EOCP review is based on the federal "Six Good Faith Efforts" model.
2. The GFEs are required methods to ensure that all ELBE and SLBE firms have had the opportunity to compete for the City's Public Works procurements. The Six Good Faith Efforts, also known as affirmative steps, attract and utilize ELBE and SLBE firms:
  - a) Ensure ELBE firms are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities.
  - b) Make information of forthcoming opportunities available to SLBE-ELBE firms and arrange time for Contracts and establish delivery schedules, where requirements permit, in a way that encourages and facilitates participation by SLBE-ELBE firms in the competitive process. This includes posting solicitations for Bids or proposals to SLBE-ELBE firms for a minimum of 10 Working Days before the Bid or Proposal due date.
  - c) Consider in the contracting process whether firms competing for large Contracts could subcontract with SLBE-ELBE firms.
  - d) Encourage contracting with a consortium of ELBE-SLBE firms when a Contract is too large for one of these firms to handle individually.
  - e) Use the services and assistance of the City's EOC Office and the SLBE-ELBE Directory.
  - f) If you award subcontracts, require your Subcontractors to take the steps listed above.

**H. GOOD FAITH EFFORT DOCUMENTATION.**

1. If the specified SLBE-ELBE Subcontractor participation percentages are not met, you shall submit information necessary to establish that adequate GFEs were taken to meet the Contract Subcontractor participation percentages. See the City's document titled "Small Local Business (SLBE) Program, INSTRUCTIONS FOR BIDDERS COMPLETING THE GOOD FAITH EFFORT SUBMITTAL." The instructions for completing the good faith effort submittal can be found on the City's website:

<https://www.sandiego.gov/sites/default/files/legacy/eoc/pdf/slbegfeinst.pdf>

**I. SUBCONTRACTOR SUBSTITUTION.**

1. Evidence of fraud or discrimination in the substitution of Subcontractors will result in sanctions including assessment of penalty fines, termination of Contract, or debarment. This section does not replace applicable California Public Contract Code.

**J. FALSIFICATION OF SUB-AGREEMENT AND FRAUD.**

1. Falsification or misrepresentation of a sub-agreement as to company name, Contract amount or actual Work performed by Subcontractors, or any falsification or fraud on the part your submission of documentation and forms pursuant to this program, will result in sanctions against you including assessment of penalty fines, termination of the Contract, or debarment. Instances of falsification or fraud which are indicative of an attempt by you to avoid subcontracting with certain categories of Subcontractors on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability shall be referred to the Equal Opportunity Contracting Program's Investigative Unit for possible violations of Article 2, Division 35 of the City Administrative Code, §§22.3501 et seq. (Nondiscrimination in Contracting).

**K. RESOURCES.**

1. The current list of certified SLBE-ELBE firms and information for completing the GFE submittal can be found on the City's EOC Department website:  
<http://www.sandiego.gov/eoc/programs/slbe.shtml>
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**ATTACHMENT D**  
**PREVAILING WAGE**

## PREVAILING WAGE

1. **PREVAILING WAGE RATES:** Pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair and maintenance work performed under this Contract is subject to State prevailing wage laws. For construction work performed under this Contract cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under this Contract cumulatively exceeding \$15,000, the Contractor and its subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below.
  - 1.1. **Compliance with Prevailing Wage Requirements.** Pursuant to sections 1720 through 1861 of the California Labor Code, the Contractor and its subcontractors shall ensure that all workers who perform work under this Contract are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.
    - 1.1.1. Copies of such prevailing rate of per diem wages are on file at the City and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Contractor and its subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.
    - 1.1.2. The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Contract. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Contract in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Contract, each successive predetermined wage rate shall apply to this Contract on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Contract, such wage rate shall apply to the balance of the Contract.
  - 1.2. **Penalties for Violations.** Contractor and its subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under Labor Code sections 1720 – 1861.

- 1.3. Payroll Records.** Contractor and its subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require its subcontractors to also comply with section 1776. Contractor and its subcontractors shall submit weekly certified payroll records online via the City's web-based Labor Compliance Program. Contractor is responsible for ensuring its subcontractors submit certified payroll records to the City.
- 1.3.1.** Contractor and their subcontractors shall also furnish records specified in Labor Code section 1776 directly to the Labor Commissioner in the manner required by Labor Code section 1771.4.
- 1.4. Apprentices.** Contractor and its subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. Contractor is held responsible for the compliance of their subcontractors with sections 1777.5, 1777.6 and 1777.7.
- 1.5. Working Hours.** Contractor and their subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on contractors and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.
- 1.6. Required Provisions for Subcontracts.** Contractor shall include at a minimum a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.
- 1.7. Labor Code Section 1861 Certification.** Contractor in accordance with California Labor Code section 3700 is required to secure the payment of compensation of its employees and by signing this Contract, Contractor certifies that "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract."
- 1.8. Labor Compliance Program.** The City has its own Labor Compliance Program authorized in August 2011 by the DIR. The City will withhold contract payments when payroll records are delinquent or deemed inadequate by the City or other governmental entity, or it has been established after an investigation by the City or other governmental entity that underpayment(s) have occurred. For questions or assistance, please contact the City of San Diego's Prevailing Wage Unit at 858-627-3200.

- 1.9. Contractor and Subcontractor Registration Requirements.** This project is subject to compliance monitoring and enforcement by the DIR. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid or proposal, subject to the requirements of section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.
- 1.9.1.** A Contractor's inadvertent error in listing a subcontractor who is not registered pursuant to Labor Code section 1725.5 in response to a solicitation shall not be grounds for filing a bid protest or grounds for considering the bid non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to bid opening; (2) within twenty-four hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered subcontractor pursuant to Public Contract Code section 4107.
- 1.9.2.** By submitting a bid or proposal to the City, Contractor is certifying that he or she has verified that all subcontractors used on this public work project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and Contractor shall provide proof of registration for themselves and all listed subcontractors to the City at the time of bid or proposal due date or upon request.
- 1.10. Stop Order.** For Contractor or its subcontractors engaging in the performance of any public work contract without having been registered in violation of Labor Code sections 1725.5 or 1771.1, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractors or unregistered subcontractor(s) on ALL public works until the unregistered contractor or unregistered subcontractor(s) is registered. Failure to observe a stop order is a misdemeanor.
- 1.11. List of all Subcontractors.** The Contractor shall provide the list of subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this Contract prior to any work being performed; and the Contractor shall provide a complete list of all subcontractors with each invoice. Additionally, Contractor shall provide the City with a complete list of all subcontractors (regardless of tier) utilized on this contract within ten working days of the completion of the contract, along with their DIR registration numbers. The City shall withhold final payment to Construction Management Professional until at least thirty (30) days after this information is provided to the City.
- 1.12. Exemptions for Small Projects.** There are limited exemptions for installation, alteration, demolition, or repair work done on projects of \$25,000 or less. The Contractor shall still comply with Labor Code sections 1720 et. seq. The only recognized exemptions are listed below:

- 1.12.1.** Registration. The Contractor will not be required to register with the DIR for small projects. (Labor Code section 1771.1).
- 1.12.2.** Certified Payroll Records. The records required in Labor Code section 1776 shall be required to be kept and submitted to the City of San Diego, but will not be required to be submitted online with the DIR directly. The Contractor will need to keep those records for at least three years following the completion of the Contract. (Labor Code section 1771.4).
- 1.12.3.** List of all Subcontractors. The Contractor shall not be required to hire only registered subcontractors and is exempt from submitting the list of all subcontractors that is required in section 1.11. above. (Labor code section 1773.3).

**ATTACHMENT E**  
**SUPPLEMENTARY SPECIAL PROVISIONS**



## SUPPLEMENTARY SPECIAL PROVISIONS

The following Supplementary Special Provisions (SSP) modifies the following documents:

1. The **2021 Edition** of the Standard Specifications for Public Works Construction (The "GREENBOOK").
2. The **2021 Edition** of the City of San Diego Standard Specifications for Public Works Construction (The "WHITEBOOK"), including the following:
  - a) General Provisions (A) for all Construction Contracts.

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### SECTION 1 – GENERAL, TERMS, DEFINITIONS, ABBREVIATIONS, UNITS OF MEASURE, AND SYMBOLS

**1-2 TERMS AND DEFINITIONS.** To the "WHITEBOOK":

To item 47, "Holiday", ADD the following:

| Holiday    | Observed On |
|------------|-------------|
| Juneteenth | June 19     |

To item 55, "Normal Working Hours", DELETE in its entirety and SUBSTITUTE with the following:

**Normal Working Hours:** Normal Working Hours shall be **7:00 AM to 5:00 PM, Monday through Friday**, (8 hours per day up to 40 hours per week), inclusive. Saturdays, Sundays, and City Holidays are excluded. Unless otherwise specified on the Traffic Control Permits.

### SECTION 3 – CONTROL OF THE WORK

**3-2 SELF-PERFORMANCE.** To the "GREENBOOK", DELETE in its entirety and SUBSTITUTE with the following:

1. You shall perform, with your own organization, Contract Work amounting to at least **50%** of the Base Bid.

**3-9 TECHNICAL STUDIES AND SUBSURFACE DATA.** To the "WHITEBOOK", ADD the following:

5. In preparation of the Contract Documents, the designer has relied upon the following report of explorations and tests at the Work Site:
  - a) Report of Final Wetland Mitigation Plan for 2015/16 Emergency Channel Maintenance dated May 2019 by Dudek.
6. The report listed above is available for review at the following link:

[https://drive.google.com/drive/folders/1oXDdwxDzPi-LD8cXac3M\\_aaU9LvG5imM](https://drive.google.com/drive/folders/1oXDdwxDzPi-LD8cXac3M_aaU9LvG5imM)

## SECTION 4 - CONTROL OF MATERIALS

**4-6 TRADE NAMES.** To the "WHITEBOOK", ADD the following:

11. You shall submit your list of proposed substitutions for an "equal" item **no later than 5 Working Days after the issuance of the Notice of Intent to Award** and on the City's Product Submittal Form available at:

<https://www.sandiego.gov/ecp/edocref/>

## SECTION 5 - LEGAL RELATIONS AND RESPONSIBILITIES

**5-4 INSURANCE.** To the "GREENBOOK", DELETE in its entirety and SUBSTITUTE with the following:

**5-4 INSURANCE.**

1. The insurance provisions herein shall not be construed to limit your indemnity and defense duties set forth in the Contract.

**5-4.1 Policies and Procedures.**

1. You shall procure the insurance described below, at your sole cost and expense, to provide coverage against claims for loss including injuries to persons or damage to property, which may arise out of or in connection with the performance of the Work by you, your agents, representatives, officers, employees or Subcontractors.
2. Insurance coverage for property damage resulting from your operations is on a replacement cost valuation. The market value will not be accepted.
3. You shall maintain this insurance as required by this Contract and at all times thereafter when you are correcting, removing, or replacing Work in accordance with this Contract. Your duties under the Contract, including your indemnity obligations, are not limited to the insurance coverage required by this Contract.
4. If you maintain broader coverage or higher limits than the minimums shown below, City requires and shall be entitled to the broader coverage or the higher limits maintained by you. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.
5. Your payment for insurance shall be included in the Contract Price you bid. You are not entitled to any additional payment from the City to cover your insurance, unless the City specifically agrees to payment in writing. Do not begin any Work under this Contract or allow any Subcontractors to begin work, until you have provided, and the City has approved, all required insurance.

6. Policies of insurance shall provide that the City is entitled to 30 days advance written notice of cancellation or non-renewal of the policy or 10 days advance written notice for cancellation due to non-payment of premium. Maintenance of specified insurance coverage is a material element of the Contract. Your failure to maintain or renew coverage and to provide evidence of renewal during the term of the Contract may be treated by the City as a material breach of the Contract.

**5-4.2 Types of Insurance.**

**5-4.2.1 General Liability Insurance.**

1. Commercial General Liability Insurance shall be written on the current version of the ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad.
2. The policy shall cover liability arising from premises and operations, XCU (explosions, underground, and collapse), independent contractors, products/completed operations, personal injury and advertising injury, bodily injury, property damage, and liability assumed under an insured's contract (including the tort liability of another assumed in a business contract).
3. There shall be no endorsement or modification limiting the scope of coverage for either "insured vs. insured" claims or contractual liability. You shall maintain the same or equivalent insurance for at least 10 years following completion of the Work.
4. All costs of defense shall be outside the policy limits. Policy coverage shall be in liability limits of not less than the following:

| <u>General Annual Aggregate Limit</u>         | <u>Limits of Liability</u> |
|---|----------------------------|
| Other than Products/Completed Operations      | \$10,000,000               |
| Products/Completed Operations Aggregate Limit | \$10,000,000               |
| Personal Injury Limit                         | \$5,000,000                |
| Each Occurrence                               | \$5,000,000                |

**5-4.2.2 Commercial Automobile Liability Insurance.**

1. You shall provide a policy or policies of Commercial Automobile Liability Insurance written on the current version of the ISO form CA 00 01 12 90 or later version or equivalent form providing coverage at least as broad in the amount of \$1,000,000 combined single limit per accident, covering bodily injury and property damage for owned, non-owned, and hired automobiles ("Any Auto").
2. All costs of defense shall be outside the limits of the policy.

**5-4.2.3 Workers' Compensation Insurance and Employers Liability Insurance.**

1. In accordance with the provisions of California Labor Code section 3700, you shall provide, at your expense, Workers' Compensation Insurance and Employers Liability Insurance to protect you against all claims under applicable state workers' compensation laws. The City, its elected officials, and employees will not be responsible for any claims in law or equity occasioned by your failure to comply with this requirement.
2. Statutory Limits shall be provided for Workers' Compensation Insurance as required by the state of California, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
3. By signing and returning the Contract, you certify that you are aware of the provisions of California's Workers' Compensation laws, including Labor Code section 3700, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance, and that you will comply with these provisions before commencing the Work..

**5-4.3 Rating Requirements.** Except for the State Compensation Insurance Fund, all insurance required by this Contract shall be carried only by responsible insurance companies with a rating of, or equivalent to, at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the state of California, and that have been approved by the City.

**5-4.3.1 Non-Admitted Carriers.** The City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the state of California and is included on the List of Approved Surplus Lines Insurers (LASLI list).

All policies of insurance carried by non-admitted carriers shall be subject to all of the requirements for policies of insurance provided by admitted carriers described in this Contract.

**5-4.4 Evidence of Insurance.** You shall furnish the City with original Certificates of Insurance, including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause), prior to your commencement of Work under this Contract. In addition, The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

**5-4.5 Policy Endorsements.**

**5-4.5.1 Commercial General Liability Insurance.**

**5-4.5.1.1 Additional Insured.** To the fullest extent permitted by law and consistent with the limiting provisions set forth at California Civil Code section 2782, California Insurance Code section 11580.04, and any applicable successor statutes limiting indemnification of public agencies that bind the City, the policy or policies shall be endorsed to include

as an Additional Insured the City and its respective elected officials, officers, employees, agents, and representatives, with respect to liability arising out of:

- i. Ongoing operations performed by you or on your behalf,
- ii. your products,
- iii. your work, e.g., your completed operations performed by you or on your behalf, or
- iv. premises owned, leased, controlled, or used by you.

**5-4.5.1.2 Primary and Non-Contributory Coverage.** The policy shall be endorsed to provide that the coverage with respect to operations, including the completed operations, if appropriate, of the Named Insured is primary to any insurance or self-insurance of the City and its elected officials, officers, employees, agents and representatives. Further, it shall provide that any insurance maintained by the City and its elected officials, officers, employees, agents and representatives shall be in excess of your insurance and shall not contribute to it.

**5-4.5.1.3 Project General Aggregate Limit.** The policy or policies shall be endorsed to provide a Designated Construction Project General Aggregate Limit that will apply only to the Work. Only claims payments which arise from the Work shall reduce the Designated Construction Project General Aggregate Limit. The Designated Construction Project General Aggregate Limit shall be in addition to the aggregate limit provided for the products-completed operations hazard.

**5-4.5.2 Workers' Compensation Insurance and Employers Liability Insurance.**

**5-4.5.2.1 Waiver of Subrogation.** The policy or policies shall be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents, and representatives for losses paid under the terms of the policy or policies and which arise from Work performed by the Named Insured for the City.

**5-4.6 Deductibles and Self-Insured Retentions.** You shall disclose deductibles and self-insured retentions to the City at the time the evidence of insurance is provided. The City may require you to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

**5-4.7 Reservation of Rights.** The City reserves the right, from time to time, to review your insurance coverage, limits, deductibles, and self-insured retentions to determine if they are acceptable to the City. The City will reimburse you, without overhead, profit, or any other markup, for the cost of additional premium for any coverage requested by the Engineer, but not required by this Contract.

**5-4.8 Notice of Changes to Insurance.** You shall notify the City, in writing, 30 days prior to any material change to the policies of insurance provided under this Contract. This written notice is in addition to the requirements of paragraph 6 of Section 5-4.1.

**5-4.9 Excess Insurance.** Policies providing excess coverage shall follow the form of the primary policy or policies, including, all endorsements.

## **SECTION 6 – PROSECUTION AND PROGRESS OF THE WORK**

**6-1.1 Construction Schedule.** To the “WHITEBOOK”, ADD the following:

3. Refer to the Sample City Invoice materials in **Appendix D – Sample City Invoice with Cash Flow Forecast** and use the format shown.
4. The **120 Calendar Day** Plant Establishment Period is included in the stipulated Contract Time and shall begin with the acceptance of installation of the vegetation plan in accordance with Section 801-6, “MAINTENANCE AND PLANT ESTABLISHMENT”.

**6-2.1 Moratoriums.** To the “WHITEBOOK”, ADD the following:

3. Do not Work in the areas where there is currently a moratorium issued by the City. The moratorium is listed below:
  - a) Bird Nesting Season (requires monitoring) from **March 15 to September 15** (inclusive).

**ADD:**

**6-6.1.1 Environmental Document.**

1. The City of San Diego has prepared a **CEQA SECTION 15162 CONSISTENCY MEMORANDUM** includes “**Wetland Mitigation Plan for 2015/2016 Emergency Channel Maintenance, South Chollas and Paradise Canyon Wetland Mitigation Project**”; “**Final Wetland Mitigation Plan for 2015/16 Emergency Channel Maintenance**”; and “**2015/16 Emergency Channel Maintenance Mitigation Compliance Memo**”; and **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**”, as referenced in the Contract Appendix. You shall comply with all requirements of the **CEQA SECTION 15162 CONSISTENCY MEMO** as set forth in **Appendix A**.
2. Compliance with the City’s environmental document shall be included in the Contract Price, unless separate bid items have been provided.

**6-6.2.1 Archaeological and Native American Monitoring Program.** To the “WHITEBOOK”, ADD the following:

4. You shall retain a qualified archaeologist and Native American Monitor for this Contract. You shall coordinate your activities and Schedule with the activities and schedules of the archaeologist and Native American monitor. Notify the Engineer before noon of the Working Day before monitoring is required. See 3-5, “INSPECTION” for details.

**6-9**

**Liquidated Damages.** To the "WHITEBOOK", item 2, DELETE in its entirety and SUBSTITUTE with the following:

- 2. The execution of the Contract shall constitute agreement between you and the City that the liquidated damage amount described in the table below is the value of the damage caused by your failure to complete the Work within the allotted time. Such sum shall not be construed as a penalty and may be deducted from your payments if such delay occurs.

| <b>Contract Value</b>        | <b>Liquidated Damages Daily Amount</b> |
|------------------------------|--|
| Less than \$200,000          | \$1,000                                |
| \$200,001 to \$500,000       | \$1,500                                |
| \$500,001 to \$1,000,000     | \$2,000                                |
| \$1,000,001 to \$2,000,000   | \$2,500                                |
| \$2,000,001 to \$5,000,000   | \$3,000                                |
| \$5,000,001 to \$10,000,000  | \$5,500                                |
| \$10,000,001 to \$20,000,000 | \$6,500                                |
| Greater Than \$20,000,001    | \$7,000                                |

**SECTION 7 - MEASUREMENT AND PAYMENT**

**7-3.9**

**FIELD ORDERS.** To the "WHITEBOOK", DELETE in its entirety and SUBSTITUTE with the following:

- 1. If the cumulative total of Field Order items of Work does not exceed the "Field Orders" Bid Item, the City shall pay those Field Orders as shown below:

**TABLE 7-3.9  
FIELD ORDER LIMITS**

| <b>Contract Price</b>        | <b>Maximum Each Field Order Work Amount</b> |
|------------------------------|---|
| Less than 1,000,000          | \$10,000                                    |
| 1,000,001 to \$5,000,000     | \$20,000                                    |
| \$5,000,001 to \$10,000,000  | \$25,000                                    |
| \$10,000,001 to \$30,000,000 | \$40,000                                    |
| Greater than \$30,000,000    | \$70,000                                    |

**7-3.11 Compensation Adjustments for Price Index Fluctuations.** To the "WHITEBOOK", ADD the following:

5. This Contract **is not** subject to the provisions of The "WHITEBOOK" for Compensation Adjustments for Price Index Fluctuations for paving asphalt.

**SECTION 802 – NATIVE HABITAT PROTECTION, INSTALLATION, MAINTENANCE, AND MONITORING**

**802-1 GENERAL.** To the "WHITEBOOK", ADD the following:

6. The Contractor shall have experience in the installation of wetland and riparian habitat restoration in Southern California, as well as proficiency at native and non-native plant identification and ecology.
7. At all times, you shall comply with the requirements of the Project Wetland Mitigation Plan, the Construction Drawings, and on-site direction from the Project Biologist and the City.
8. The notes and special provisions on the Construction Drawings are an integral part of the construction documents. You shall be fully responsible for reading, understanding and conforming to all requirements prescribed in said notes and special provisions.

**802-2.1 Project Biologist.** To the "WHITEBOOK", ADD the following:

5. You shall retain a qualified Project Biologist to perform biological monitoring Work for this Contract. The qualified Project Biologist shall have experience in the oversight of wetland and riparian habitat restoration installation and post-installation monitoring, including proficiency at native and non-native plant identification and ecology in Southern California. In addition, the qualified Project Biologist will have a bachelor's degree in Biology, Environmental Science, Ecology, Landscape Architecture, or other applicable major
6. You shall coordinate your activities and Schedule with the activities and schedules of the Project Biologist.
7. All pre-construction surveys shall be complete and verified by the City prior to work.

**802-2.3 Construction Fencing.** To the "WHITEBOOK", ADD the following:

2. Provide surveys for restoration boundary and weed free buffer limits and install and maintain temporary T-post and rope fencing along the outside limits of the combined Rehabilitation/Enhancement Areas as prescribed in the notes and shown on the Construction Drawings



- 802-2.5 Construction Access Routes.** To the "WHITEBOOK", ADD the following:
7. Equipment/vehicles shall use construction access routes as shown on the Construction Drawings.
- 802-3.6 Container Stock.** To the "WHITEBOOK", ADD the following:
6. Container stock planting conducted shall be as shown on and as prescribed in the notes and on the Construction Drawings.
- 802-3.7 Temporary Irrigation.** To the "WHITEBOOK", ADD the following:
6. Provide, install and maintain a temporary spray irrigation system as prescribed in the notes and shown on the Construction Drawings.
  7. The City will be responsible for water meter and water costs.
- 802-3.9 Hydro Seeding.** To the "WHITEBOOK", ADD the following:
5. Hydro Seeding work to be conducted shall be as shown on and as prescribed in the notes and shown on the Construction Drawings.
- 802-3.10.2 120 Calendar Day PEP.** To the "WHITEBOOK", ADD the following:
8. The 120-day Plant Establishment Period shall be as prescribed in the notes and shown on the Construction Drawings.
  9. As-built acreage and location for Enhancement and Rehabilitation Areas shall be recorded by the Project Biologist, using GPS, to verify locations and acreages of mitigation polygon types. The recorded as-built acreages and locations will be utilized for developing record drawings and shall serve as the maintenance area for the 120-day Plant Establishment and Maintenance Period. The record shall be submitted in an 8.5"X11" PDF format for review and approval by the City before entering the 120-day Plant Establishment and Maintenance Period.
  10. The following criteria must be met for both the Implementation Phase and the subsequent 120-day Plant Establishment Period to be considered successful:
    1. All target invasive species removed or killed in place.
    2. Mitigation Areas free of trash, inorganic debris, and diseased vegetation, unless the City chooses to leave trash or inorganic debris in place to avoid impacts to sensitive resources.
    3. No erosion through implementation of BMPs, native planting and seeding.
    4. 100 percent survivorship of container plants.
    5. As directed by the City, in coordination with the Project Biologist, diseased vegetation will be handled as specified herein and on the Construction Drawings.
    6. All native vegetation shall be avoided and protected during work activities.

11. Plant establishment activities and other remedial measures shall be recorded on a weekly basis in conjunction with the weekly site observations for watering and any irrigation, weed and invasive plant eradication, replanting and other maintenance and remedial actions. The records shall be submitted as a report in an 8.5"X11" PDF format for review and approval by the City before Final Project Acceptance.

**ADD:**

**802-3.10.4 As-Built/Completion Report.**

1. In addition to the Final As-Built, upon completion of non-native vegetation removal, you will provide as-built footprints of the enhancement treatment areas to determine the exact quantities and locations of container plant installation.

**802-3.10.4.1 Record Drawings**

1. You shall provide and keep up to date at all times, a complete set of full size, bond print record drawings, which shall be corrected daily and show every change during the re-vegetation and restoration, and plant establishment maintenance work. The record drawings shall also show the exact revegetation locations, sizes, and kinds of materials and equipment used during the plant establishment maintenance. Record drawings shall be retained on the site.
2. Based on actual construction, the record drawings shall show as-built conditions for the following:
  - a) A legend listing all materials used;
  - b) Any features installed as results from change orders or field instructions;
  - c) Any known areas not installed as designed;
  - d) Record of any areas that wildlife activity was noticed;
  - e) Areas of weed and invasive plant eradication (locations and quantity), treatment techniques, and species removed;
  - f) Plantings, indicated by species container size, and number of plants installed;
  - g) Percentage of plant survival and provided information of areas that required remedial actions; and
  - h) Any irrigation systems used and locations of their primary components and equipment.
3. Record progress sheets shall be updated daily as the work proceeds, showing the work as actually installed, and shall be the basis for measurement and payment for work completed. Record progress sheets shall be available at all times for observation and shall be kept in a location easily accessible to the City. In the event that the progress sheets are not available for review or not

current at the time of any site visit by the City, it will be assumed that no work has been completed and you shall be assessed the cost of that site visit at the current billing rate of the City. No other site observations shall take place without prior payment of this assessment.

4. Make neat and legible notations on the record progress drawings/sheets. The relocated equipment and dimensions shall then be transferred to the final record drawings at the proper time.
5. Before the date of the Final Project Acceptance, transfer all information from the progress sheets to final record drawings prepared as “red-lined” mark-ups on the original contract drawings; said record drawings shall be submitted to the City for approval. Address any comments and make any revisions to the record drawings before the Final Project Acceptance.
6. On or before the date of the Final Project Acceptance, deliver the corrected and completed record drawings to the City. Delivery of the record drawings will not relieve you of the responsibility of furnishing required information that may have been omitted from the record drawings.
7. The final record drawings shall be to scale and reproducible.

#### **802-4**

**PAYMENT.** To the “WHITEBOOK”, ADD the following:

1. For the South Chollas Creek Wetland Mitigation Site, the payment for each Bid Item includes work and materials to complete the work as described below:
  - a. **Bid Item Site Survey/Staking:** the limits of the project treatment areas shall be surveyed and staked by the Contractor and approved by the Project Biologist prior to work. Survey stakes shall be clearly marked and visible above existing vegetation.
  - b. **Weed and Invasive Plant Eradication:** Cut to Grade Vegetation Invasive Removal: the Contractor is responsible for the complete removal and disposal of all trash, inorganic debris, non-native vegetation and diseased native vegetation located within the mitigation treatment project limits. Removal shall be as indicated by the Construction Plans or as identified in the field by the project biologist. All non-native woody tree species, including the following listed below are required to be cut to grade with cut stumps treated with an appropriate herbicide within 5 minutes of initial cut. If the Project Biologist identifies signs of shot hole borer in the remaining stumps, additional stump grinding, or grubbing of the root ball and removal from the site will be required.
    - i. Non-native woody tree species identified or likely to occur on site: mature castor bean (*ricinis communis*), tree tobacco (*nicotiana glauca*), giant reed (*arundo donax*), salt cedar (*tamarix ramosissima*) and palms (*washingtonia robusta* and *phoenix canariensis*).
  - c. **Weed and Invasive Plant Eradication:** Palm Removal: the Contractor is responsible for the complete removal and disposal of all palms

located within the mitigation treatment project limits. Removal shall be as indicated by the Construction Plans or as identified in the field by the Project Biologist. All palm species are required to be cut to grade with cut stumps treated with an appropriate herbicide within 5 minutes of initial cut. If the Project Biologist identifies signs of shot hole borer in the remaining stumps, additional stump grinding, or grubbing of the root ball and removal from the site will be required.

- d. **Weed and Invasive Plant Eradication:** Invasive Shothole Borers (ISHB) Treatment/Staging Area: prior to construction activities, the Project Biologist shall conduct a site visit to determine the presence or absence of shot hole borer at the Project Site. If shot hole borer is confirmed, all vegetative material removed from the project site or surrounding areas shall be handled as if it is infected with invasive shot hole borer and associated fungi as outlined in the construction documents, including stockpiling and chipping all vegetative material in a material containment area, solarizing it, and properly disposing of it at an approved disposal facility. Shot-hole borer procedures may be modified over time to the most current best shot-hole borer procedures may be modified over time to the most current best management practices as recommended by the Project Biologist.
  - e. The payment for Bid Item **"As-Built/Completion Report"** shall include payment for work described in Section 802-3.10.4.
  - f. The payment for Bid Item **"Maintenance: 120 Calendar Day Plant Establishment Period"** shall include payment for work described in Section 802-3.10.2. The 120 Calendar Day Plant Establishment Period Maintenance Schedule shall follow the Construction Plans for weed abatement, plant replacement, supplemental watering, erosion control, and site maintenance and clean up.
2. For the Paradise Canyon Open Space Wetland Mitigation Site, the payment for each Bid Item includes work and materials to complete the work as described below:
- a. **Site Survey/Staking:** the limits of the project treatment areas shall be surveyed and staked by the Contractor and approved by the Project Biologist prior to work. Survey stakes shall be clearly marked and visible above existing vegetation.
  - b. **Weed and Invasive Plant Eradication:** Cut to Grade Vegetation Invasive Removal: the Contractor is responsible for the complete removal of all trash, inorganic debris, non-native vegetation and diseased native vegetation located within the mitigation treatment project limits. Removal shall be as indicated by the Construction Plans or as identified in the field by the Project Biologist. All non-native woody tree species, including the following listed below are required to be cut to grade with cut stumps treated with an appropriate herbicide within 5 minutes of initial cut. If the Project Biologist

identifies signs of shot hole borer in the remaining stumps, additional stump grinding, or grubbing of the root ball and removal from the site will be required.

- i. Non-native woody tree species identified or likely to occur on site: mature castor bean (*ricinis communis*), tree tobacco (*nicotiana glauca*), giant reed (*arundo donax*), salt cedar (*tamarix ramosissima*) and palms (*washingtonia robusta* and *phoenix canariensis*).
- c. **Weed and Invasive Plant Eradication:** Palm Removal: the Contractor is responsible for the complete removal and disposal of all palms located within the mitigation treatment project limits. Removal shall be as indicated by the Construction Plans or as identified in the field by the Project Biologist. All palm species are required to be cut to grade with cut stumps treated with an appropriate herbicide within 5 minutes of initial cut. If the Project Biologist identifies signs of shot hole borer in the remaining stumps, additional stump grinding, or grubbing of the root ball and removal from the site will be required.
- d. **Weed and Invasive Plant Eradication** - Invasive Shothole Borers (ISHB) Treatment/Staging Area: prior to construction activities, the Project Biologist shall conduct a site visit to determine the presence or absence of shot hole borer at the Project Site. If shot hole borer is confirmed, all vegetative material removed from the project site or surrounding areas shall be handled as if it is infected with invasive shot hole borer and associated fungi as outlined in the construction documents, including stockpiling and chipping all vegetative material in a material containment area, solarizing it, and properly disposing of it at an approved disposal facility. Shot-hole borer procedures may be modified over time to the most current best shot-hole borer procedures may be modified over time to the most current best management practices as recommended by the Project Biologist.
- e. The payment for Bid Item **"As-Built/Completion Report"** shall include payment for work described in Section 802-3.10.4.
- f. The payment for Bid Item **"Maintenance: 120 Calendar Day Plant Establishment Period"** shall include payment for work described in Section 802-3.10.2. The 120 Calendar Day Plant Establishment Period Maintenance Schedule shall follow the Construction Plans for weed abatement, plant replacement, supplemental watering, erosion control, and site maintenance and clean up.

#### **SECTION 1001 – CONSTRUCTION BEST MANAGEMENT PRACTICES (BMPs)**

**1001-1 GENERAL.** To the "WHITEBOOK", ADD the following:

8. Based on a preliminary assessment by the City, this Contract is subject to **WPCP**.

**SUPPLEMENTARY SPECIAL PROVISIONS**  
**APPENDICES**

**APPENDIX A**  
**CEQA SECTION 15162 CONSISTENCY MEMO**



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: April 13, 2023

TO: Elena Pascual, Senior Planner, Planning Department

FROM: Anastasia Brewster, Senior Planner, Stormwater Department

SUBJECT: Wetland Mitigation Plan for 2015/2016 Emergency Channel Maintenance, South Chollas and Paradise Canyon Wetland Mitigation Project

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This memo provides a California Environmental Quality Act (CEQA) Guidelines Section 15162 consistency evaluation for implementation of the approved Wetland Mitigation Plan for 2015/2016 Emergency Channel Maintenance (Plan). The Plan provides compensatory wetland mitigation for several emergency channel maintenance projects performed by the Stormwater Department (SWD; formerly known as the Transportation & Stormwater Department [TSW]) during the winter of 2015/2016 under the former Master Storm Water System Maintenance Program (MMP). The wetland rehabilitation and enhancement components of the Plan located in South Chollas Creek Map and Paradise Canyon Open Space will be implemented through a construction contract. The remaining wetland enhancement components will be implemented through an existing SWD landscaping contract. The entire Plan was most recently evaluated under CEQA in the City of San Diego's (City's) Final Environmental Impact Report (EIR) for the Municipal Waterways Maintenance Plan (MWMP) dated March 6, 2020 (Project No. 616992/SCH No. 2017071022).

CEQA Guidelines Section 15162 sets forth the criteria for determining the appropriate additional environmental documentation, if any, to be completed when there is a previously approved EIR addressing the project for which a subsequent discretionary action is required. If impacts associated with the subsequent discretionary action do not result in substantial changes in the project that result in new significant environmental effects (or the increase in severity of previously identified significant effects), the project may be found consistent with existing documentation, and no new EIR, or an addendum to the existing EIR, would be required.

**BACKGROUND**

The Plan satisfies required compensatory wetland mitigation for several emergency channel maintenance projects that were found to be in substantial conformance with the former Site Development Permit (SDP) and MMP Program EIR (see Attachment 1). The mitigation sites identified in the Plan were also analyzed in the former Program EIR. The Plan was originally approved by the City Development Services Department, City Planning Department, and Regional Water Quality Control Board (RWQCB) in the summer of 2019 (see Attachment 2). SWD is proceeding with implementation of certain components of the Plan via a construction contract, which is considered a subsequent discretionary action of the previously approved Plan. However, the Program EIR has since become null and void as a result of the conditions



of the MMP Settlement Agreement, and it is recommended that subsequent discretionary actions to implement the Plan rely on a valid CEQA document.

The MWMP was prepared to replace the former MMP; it is composed of both project- and program-level components, including implementation of compensatory mitigation sites. Appendix F of Appendix D, Biological Resources Technical Report, of the Final EIR identifies existing, planned, and future mitigation sites that would be implemented to satisfy compensatory mitigation for maintenance of stormwater facilities associated with the MWMP. The Plan in its entirety is included as a Category 2 mitigation site in Appendix F of Appendix D. Section 5.3, Biological Resources (Table 5.3-7) and Appendix F of Appendix D of the Final EIR provide a CEQA environmental analysis of the identified compensatory mitigation sites and include determinations of significance and mitigation, where applicable.

The construction contract would implement the wetland rehabilitation and enhancement components of the Plan located in South Chollas Creek Map 98A and Paradise Canyon Open Space. The construction documents associated with the contract identify the exact locations, planting palettes, seed mixes, irrigation, vegetation handling, installation methods, and disposal requirements, among other similar requirements, for these components of the Plan. The implementation details provided in the contract and associated construction documents are the same as those identified in and required by the approved Plan.

A determination of consistency with the former MMP has been previously made for the remaining enhancement components of the Plan to be implemented at the following locations: Washington Map 84; Chollas Creek 91 and 93; and South Chollas Creek Maps 95, 97, 98, and 104. Therefore, the following environmental considerations, and request for concurrence, is specific to the following locations in the construction contract: South Chollas Creek Map 98A and Paradise Canyon Open Space.

## **ENVIRONMENTAL CONSIDERATIONS**

As mentioned above, the Plan is included as a Category 2 mitigation project in Appendix F of Appendix D of the Final EIR. The Final EIR found the following impacts not to be significant: light, glare, and shading; agricultural resources; air quality – substantial alteration of air movement; energy; geologic conditions<sup>1</sup>; growth inducement; health and safety/hazards – proximity to airport, and interference with emergency response plan; hydrology – flooding, tsunami, or seiche; land use – physically divide an established community and compatibility with airport land use plan; mineral resources; noise – incompatibility with aircraft noise; public services; public utilities; and transportation and traffic. The Final EIR addressed the following environmental issues: aesthetics/visual effects and neighborhood character; air quality and odor; biological resources; greenhouse gas (GHG) emissions; health and safety/hazards; historical, archaeological, and tribal cultural resources; hydrology; land use; noise; paleontological resources; solid waste; and water quality. Impacts to health and safety/hazards, paleontological resources, GHG, hydrology, and land use were found to 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 were found to be less than significant with implementation of mitigation measures (MMs). Lastly, impacts to biological resources,

<sup>1</sup> Although impacts associated with geologic conditions were found to be less than significant, an Environmental Protocol (EP) GEO-1 has been included to ensure bank stabilization when bank repairs are necessary.

solid waste, and water quality were found to be significant and unavoidable with implementation of MMs. Significant and unavoidable cumulatively considerable impacts were also found in these three issue areas. All the issue areas evaluated in the Final EIR are discussed below to demonstrate consistency with the findings and conclusions in the Final EIR.

### **Aesthetics/Visual Effects and Neighborhood Character**

The Final EIR found potentially significant impacts from construction of compensatory mitigation sites that 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. The analysis below satisfies the requirements of MM-AES-1.

The construction contract would be implemented in existing vegetated open space areas located adjacent to commercial and residential uses. The construction contract would remove invasive, non-native vegetation, such as palms and giant reed, and plant and seed with native vegetation. Plants to be installed would be in 1-gallon to 5-gallon containers and would not block existing views. Oppositely, removal of invasive palms may increase existing views. Additionally, the Paradise Canyon Open Space site is located in a canyon at a lower elevation than surrounding residential areas. Therefore, implementation of the construction contract would not block or interrupt views.

Impacts related to light and glare, alteration of existing or planned character, community plan landmarks, and landform alteration, were found to be less than significant in the Final EIR. Similarly, construction activities would not involve the use of nighttime lighting, mass grading, and or removal of landmark trees. The construction contract would involve removal of invasive trees and vegetation from existing open space areas where vegetation naturally shifts seasonally and over time. As detailed in the Final EIR, the visual effects associated with vegetation removal would not be noticeable to nearby residents or public users and would not alter the characteristics displayed by in-facility vegetation. This is because changes in vegetation caused by mitigation activities are consistent with the existing expectations of vegetation fluctuations in open space areas. As such, the construction contract would not result in any significant impacts to aesthetics/visual effects or neighborhood character, nor would it result in a substantial increase in the severity of those addressed in the Final EIR.

### **Agricultural Resources**

Consistent with the findings in the Final EIR, the construction contract is not located on land designated as farmland, forest land, timberlands, or areas zoned for timberland production. The construction sites are within designated City open space areas. Therefore, no impacts to agricultural or forestry resources would occur.

### **Air Quality and Odor**

The Final EIR found that estimated emissions resulting from implementation of 10 concurrent maintenance activities would exceed the San Diego Air Pollution Control District screening-level threshold for oxides of nitrogen (NO<sub>x</sub>) and expose sensitive receptors to substantial pollutant concentrations. This impact was also found to be cumulatively considerable. Construction of the compensatory mitigation sites would generate criteria pollutants, including NO<sub>x</sub>, from the use of machinery and gas-powered tools to remove invasive, non-native vegetation. However, emissions from equipment use would be short-term and temporary during invasive tree and vegetation removal activities and are not

expected to exceed the emissions assumed in the Final EIR for 10 concurrent maintenance activities. Implementation of the construction contract is not anticipated to overlap with three or more project- and/or program-level maintenance activities and, due to SWD staff workload and budget, it is unlikely that 10 SWD maintenance activities would be performed at the same time. Therefore, MM-AQ-1 would not be required.

Consistent with the findings in the Final EIR, the construction contract would not conflict with or obstruct implementation of the applicable air quality plan, would not result in odors that would affect a substantial number of people, and would not alter air movement. This is because implementation of the proposed activities would not increase population/housing growth in excess of that anticipated in local plans, any odors generated would be temporary, and the proposed activities would not result in the construction of buildings, structures, or objects that could alter the physical landscape in such a way that substantial alteration of air movement would occur. For these reasons, the construction contract would not result in new air quality and odor impacts or a substantial increase in the severity of those addressed in the Final EIR.

### **Biological Resources**

The Project would not result in new biological resources impacts or a substantial increase in the severity of those addressed in the Final EIR. The Final EIR found that impacts to biological resources (except for water quality) would be less than significant with the implementation of EPs and MMs. Regarding potential impacts to candidate, sensitive, or special status species, the following EPs apply and would be implemented by the construction contract: EP-BIO-2, EP-BIO-3a, EP-BIO-3b, EP-BIO-3c, EP-BIO-4, EP-BIO-5, and EP-BIO-6. The construction contract would implement components of an approved Plan to provide compensatory wetland mitigation for previous wetland impacts. The construction contract would not result in new significant wetland impacts, so MM-BIO-1a would not apply. Furthermore, existing access paths/trails would be utilized and authorized work areas would be delineated to ensure impacts to upland habitat and sensitive plants do not occur. As such, MM-BIO-1b and MM-BIO-3 would not apply. In the event unexpected impacts occur outside of the authorized limits of work, MM-BIO-2 would be implemented. As identified in the approved Plan, South Chollas Creek Map 98A and Paradise Canyon Open Space have a low potential to support sensitive wildlife, so MM-BIO-5 and MM-BIO-7 would not apply. However, if construction activities extend into the nesting season (January 15 – September 15), MM-BIO-4 and MM-BIO-6 would be implemented. The construction contract indicated that vegetation to be removed as part of the project is assumed to be infected with shot hole borer, but the assumption will be confirmed by the Project Biologist prior to vegetation removal activities. If shot hole borer or other pests are confirmed to be present in either of the sites, EP-BIO-6 would be implemented. Implementation of the EPs and MMs listed above would reduce impacts to less than significant.

Water quality impacts associated with construction activities would be less than significant. Refer to the Water Quality discussion below.

Consistent with the findings in the Final EIR, compensatory mitigation projects, such as what would be constructed per the construction contract, are expected to result in net benefits to wetland areas and functions and to the movement of resident or migratory fish and wildlife species. Therefore, these impacts would remain less than significant. Furthermore, implementation of the construction contract would result in compensatory mitigation that would comply with the City's Multiple Species Conservation Program (MSCP)

Multi-Habitat Planning Area (MHPA) requirements and would not result in adverse edge effects. By implementing the Biological Resources and Water Quality EPs and MMs identified in this memo, the construction contract would implement the requirements of EP-LU-1. Finally, EP-LU-2 would not apply because an MHPA Boundary Line Adjustment is not required for these sites. For these reasons, the construction contract would not result in new biological resources impacts or a substantial increase in the severity of those addressed in the Final EIR.

### **Energy**

Consistent with the findings in the Final EIR, implementation of the construction contract may result in the consumption of electricity, natural gas, and/or petroleum during implementation activities. However, because use of these resources would be temporary and relatively minimal, and would not be wasteful or inefficient, impacts would remain less than significant.

### **Geologic Conditions**

The Final EIR found impacts associated with geologic conditions to be less than significant with implementation of EP-GEO-1 in situations when bank repairs are necessary. The construction contract does not involve bank repair activities. Activities are limited to removal of invasive, non-native vegetation and planting and seeding with native vegetation. Therefore, no impacts would occur.

### **Greenhouse Gas Emissions**

The Final EIR found that programmatic activities, such as the establishment of compensatory mitigation sites, could generate additional emissions, but would not result in a land use change that would generate emissions greater than those assumed in the City's Climate Action Plan (CAP). The Final EIR found that MWMP activities would be consistent with the CAP's strategies and determined that, with implementation of EP-SW-1 through EP-SW-8, impacts would be less than significant. Consistent with the findings in the MWMP EIR, implementation of the Plan and construction contract would not conflict with the City's CAP or any other applicable plan, policy, or regulation adopted for the purposes of reducing greenhouse gas emissions, as detailed below:

#### *Strategy 1: Decarbonization of the Built Environment*

Implementation of the construction contract would result in the construction and maintenance of two compensatory mitigation sites and no new buildings would be developed. Therefore, the construction contract would not conflict with the applicable CAP goals and strategies identified in Strategy 1.

#### *Strategy 2: Access to Clean and Renewable Energy*

The construction contract does not include any features that would change the source of any energy supplied, increase operational energy demand, or interfere with the City's transition to renewable energy sources. Thus, the construction contract would not conflict with the applicable CAP goals and strategies identified in Strategy 2.

#### *Strategy 3: Mobility and Land Use*

The construction contract would not conflict with any circulation programs, plans, ordinances, or policies. Access to the project sites will be limited to access routes/trails in established Open Space areas with minimal use of surrounding nearby public rights of way for ingress and egress to the sites. Activities associated with the construction contract would

not result in a change to the level of service to the surrounding circulation system and would not impact any public transit facilities. The construction contract would not result in any land use changes. Thus, the construction contract would not conflict with the applicable CAP goals and strategies identified in Strategy 3.

*Strategy 4: Circular Economy and Clean Communities*

As described in the Solid Waste section below, the project would implement EP-SW-1 (Waste Management Plan) and EP-SW-5 (Tire Disposal) which would reduce waste sent to the landfill in support of the City's waste reduction goals. Therefore, the construction contract would not conflict with the applicable CAP goals and strategies identified in Strategy 4. Also, see Solid Waste discussion below.

*Strategy 5: Resilient Infrastructure and Healthy Ecosystems*

The construction contract will implement EPs and MMs to ensure that potential impacts to sensitive species and habitats are mitigated to a less than significant level. Additionally, the installation of these compensatory mitigation sites will restore native habitat and create healthier ecosystems, and result in a net benefit to wetland functions. The proposed construction activities would be consistent with and would implement policies in the City's Climate Resilient SD Plan which call for protecting environmental quality and biodiversity and protecting and improving the integrity of open space, habitat, and parks (see policies TNE-1 and TNE-2). Thus, the construction contract would not conflict with the applicable CAP goals and strategies identified in Strategy 5.

*Strategy 6: Emerging Climate Actions*

Strategy 6 of the City's CAP addresses those greenhouse gas emissions that will remain after all currently identified measures and actions have been achieved, which account for roughly 20% of total greenhouse gas emissions by 2035. To succeed in the City's overall goal, the City must continue to identify additional actions, pursue technological innovation, expand partnerships, and support research that reduces greenhouse gas emissions in all sectors. While Strategy 6 is not directly applicable to the construction contract, the construction contract would not conflict with the City's actions to implement Strategy 6.

Greenhouse gas emissions impacts associated with the construction contract would be less than significant.

**Growth Inducement**

Consistent with the findings in the Final EIR, the construction contract would not directly or indirectly cause the displacement of people or housing, cause population growth, or require the construction of new housing. The construction contract does not propose any land use change and would not build new or displace existing housing as it involves implementation of two compensatory wetland mitigation sites. No impacts would occur.

**Health and Safety/Hazards**

The construction contract would not result in new health and safety/hazards impacts or a substantial increase in the severity of those addressed in the Final EIR. The Final EIR found that potential health and safety/hazards impacts would be less than significant with implementation of EPs. A search of the Department of Toxic Substances Control's ENVIROSTOR database confirmed that no known active or closed sites are located within 1,000 feet of the two compensatory mitigation sites. Therefore, EP-HAZ-1 does not apply. In

the unlikely event crews encounter unanticipated contaminated soils, EP-HAZ-2 and EP-HAZ-3 would be implemented to ensure impacts remain less than significant.

Consistent with the Final EIR, implementation of the construction contract would not expose people or structures to wildfire risk. Compliance with current safety precautions already in place would ensure no temporary or ongoing impacts would occur. Also, the compensatory mitigation sites are not located in proximity to an airport and would not interfere with an emergency response or evacuation plan. As mentioned below under Transportation, Circulation, and Parking, construction activities would primarily occur within access routes/trails in established Open Space areas, with minimal use of surrounding nearby public rights of way for ingress and egress to the sites. These impacts would remain less than significant.

### **Historical, Archaeological, and Tribal Cultural Resources**

Implementation of the construction contract would not result in new historical, archaeological, or tribal cultural resources impacts or a substantial increase in the severity of those addressed in the Final EIR. The Final EIR found that MWMP maintenance activities, primarily concrete repair, rip-rap replacement, and bank repair activities, would result in potentially significant impacts to historical and archaeological resources in facilities located in proximity to known resources. These impacts would be reduced to less than significant with the implementation of MM-CR-1 through MM-CR-4 and MM-HR-1 and MM-HR-2. The discussion below satisfies the requirements of MM-CR-4.

The compensatory mitigation sites identified in the construction contract are in South Chollas Creek and Paradise Canyon Open Space. The South Chollas Creek site is not listed in Table 5.6-4, Archaeological Resources Review Matrix, or Table 5.6-6, Historical Resources Review Matrix, of the EIR. However, a review of databases containing previously recorded archaeological sites confirmed the presence of four prehistoric or historic archaeological sites in proximity to the southwestern portion of the South Chollas Creek site. As such, implementation of MM-CR-1 through MM-CR-3 is required for project activities near the southwestern portion of the South Chollas Creek site. No historical built environment resources have been recorded or are known to exist at the South Chollas Creek site. Therefore, MM-HR-1 and MM-HR-2 do not apply. Implementation of MM-CR-1 through MM-CR-3 would reduce impacts to a level of less than significant.

A search of the California Historical Resources Inventory Database did not result in any historical resources records for the Paradise Canyon Open Space site; therefore, this site is not considered sensitive for historical resources. However, this site does map as archaeologically sensitive in the City's Archaeological Sensitivity GIS database. A review of databases containing previously recorded archaeological sites confirmed that no archaeological resources are known to exist within the Paradise Canyon Open Space site. Therefore, the MM-CR-1 through MM-CR-3 and MM-HR-1 and MM-HR-2 do not apply. For the reasons described above, impacts at the Paradise Canyon Open Space site would be less than significant.

### **Hydrology**

Consistent with the findings in the Final EIR, mitigation activities such as those that would be constructed under the construction contract would not increase impervious surfaces or runoff or increase the potential for flood risk. Implementation of the construction contract is not expected to result in increased velocities such that significant erosive conditions would

occur. Therefore, EP-HYD-1 would not apply. As identified in the approved Plan, erosive conditions as a result of the proposed mitigation activities would be monitored by SWD engineering staff, and appropriate Best Management Practices (BMPs), such as jute netting or fiber rolls, would be installed, as needed. Furthermore, the construction contract involves installation of container plants and seed, as well as implementation of a Water Pollution Control Plan (WPCP; see Water Quality below), which would further reduce the potential for erosive conditions. As such, impacts would remain less than significant.

### **Land Use**

Consistent with the findings in the Final EIR, the proposed construction activities would not be inconsistent with the goals and policies of the General Plan, any Community Plans, or park plans; would not result in a net loss of wetlands that would deviate from the City's land use regulations; and would be consistent with the City's MSCP Subarea Plan and Environmentally Sensitive Lands Regulations. Refer to the discussion under Biological Resources above.

Furthermore, implementation of the construction contract would not physically divide an established community because it would occur within existing Open Space areas. Finally, as stated above under Health and Safety/Hazards, the sites are not in proximity to an airport. Impacts would be less than significant.

### **Mineral Resources**

Consistent with the findings in the Final EIR, the construction contract would not cause impacts to mineral resources. The compensatory mitigation sites are within the Mineral Resource Zone 3 designation, which is defined as an area containing mineral deposits the significance of which cannot be evaluated based on available information. However, construction activities are limited to the removal of invasive, non-native vegetation and replacement with native plant species. It would not involve the removal of accumulated soils/sediment or substantial excavation or earthwork. Any required earthwork to install container plants and temporary irrigation would be minimal and shallow. Therefore, no impacts would occur.

### **Noise**

Implementation of the construction contract would generate temporary, construction-related noise comparable to that disclosed in the Final EIR. The Final EIR identified that significant noise impacts would result from construction noise located less than 100 feet from noise-sensitive receivers. Construction activities in Paradise Canyon would be 100 feet or more away from noise-sensitive receivers. However, some portions of the South Chollas Creek site would be less than 100 feet from noise-sensitive receivers (residences). With the implementation of MM-NOI-1 at the South Chollas Creek site, noise impacts would be reduced to less than significant.

The potential for groundborne vibration and noise was also assessed in the Final EIR. Because construction of the mitigation sites would utilize similar equipment as MWMP activities and would be farther away from residences, groundborne vibration and noise levels would not exceed those identified in the Final EIR. Impacts would remain less than significant. For the reasons detailed above, the construction contract would not result in new noise impacts or a substantial increase in the severity of those addressed in the Final EIR.

### **Paleontological Resources**

The Final EIR found that impacts resulting from grading activities that exceed the City's Land Development Code (LDC) thresholds for paleontological resources requirements would be reduced to less than significant with implementation of EP-PAL-1. Construction activities are limited to the removal of invasive, non-native vegetation and replacement with native plant species. These activities would involve minor, shallow earthwork to install container plants and temporary irrigation that would not meet or exceed the City's LDC thresholds for grading (i.e., depth of 10 feet and 1,000 or 2,000 cubic yards of grading). Therefore, implementation of EP-PAL-1 would not apply, and impacts would be less than significant.

### **Public Services and Facilities**

Consistent with the findings in the Final EIR, implementation of the construction contract would not cause increased demand for police and fire protection services, schools, or libraries, because it involves implementation of compensatory mitigation within existing open space areas and would inherently not result in growth-inducement. Similarly, the construction contract would not place additional demand on existing recreational facilities. Activities associated with the construction contract may temporarily interfere with passive recreational uses; however, upon completion of these activities, continued use and enjoyment of existing recreational facilities would resume without adverse effects. Impacts would remain less than significant.

### **Public Utilities**

Consistent with the findings in the Final EIR, construction activities associated with the contract would not generate additional wastewater or construct new or expand existing storm water facilities. Additionally, the construction contract does not propose the construction or expansion of electrical power, natural gas, or telecommunication facilities and would not require a permanent increase in water supplies. Construction contract activities are limited to the removal of invasive, non-native vegetation and replacement with native plant species. Temporary irrigation may be required to establish the newly installed container plants; however, existing water mains and supplies are sufficient to serve the sites. The mitigation sites are planned to be self-sustaining (i.e., rely on natural hydrology) and would, therefore, not result in significant new permanent demand for water supplies. Therefore, impacts would remain less than significant.

### **Solid Waste**

The Final EIR found significant and unavoidable solid waste impacts with implementation of EP-SW-1 through EP-SW-8. Construction activities do not involve the generation of a significant amount (over 10 tons) of reusable material, such as soil, sand, silt, or excess fill dirt. Therefore, EP-SW-2, EP-SW-3, and EP-SW-6 do not apply. Green waste (vegetation) generated by construction activities associated with the contract is primarily invasive and assumed to be infected with invasive shot hole borer beetle. As such, conditions in the Waste Management Plan (i.e., infested material) make diversion of green waste infeasible, and EP-SW-4 and EP-SW-8 do not apply. If more than nine waste tires are discovered during implementation of the construction contract, they would be separated and transported to an appropriate recycling facility consistent with EP-SW-1 and EP-SW-5. Implementation of the applicable solid waste EPs would reduce impacts to the maximum extent feasible, and the construction contract would not result in new solid waste impacts or a substantial increase in the severity of those addressed in the Final EIR.

### **Transportation, Circulation, and Parking**



Consistent with the findings in the Final EIR, construction activities associated with the contract would cause a minimal increase in traffic volume and would not substantially impact existing or planned transportation systems and parking. Construction activities would primarily occur within access routes/trails in established Open Space areas, with minimal use of surrounding nearby public rights of way for ingress and egress to the sites. Therefore, impacts would remain less than significant.

### **Water Quality**

Consistent with the requirements of the Final EIR, the construction contract would require implementation of a WPCP as outlined in EP-WQ-1. The Final EIR found significant and unavoidable long-term water quality impacts associated with the potential temporal loss of wetland habitat. However, the construction contract would have less than significant water quality impacts as it involves implementation of a compensatory wetland mitigation site. Mitigation activities are required to result in net benefits to wetland functions, including water quality, as verified through regulatory approval of the Plan by the Regional Water Quality Control Board. Impacts would be less than significant.

### **CONCLUSION**

Overall, it is not anticipated that the construction contract would result in any significant direct, indirect or cumulative impacts over and above those disclosed in the previously certified Final EIR for the MWMP.

Section 15162 of the CEQA Guidelines states:

- (a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
  - (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
  - (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
  - (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
    - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
    - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
    - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

For the reasons described above, it is our recommendation that the Planning Department find that none of the three criteria listed above has occurred. Pursuant to §21166 of the CEQA Statutes, there is no change in circumstance, additional information or project changes to warrant additional environmental review associated with approval of this subsequent discretionary action (CEQA Guidelines Section 15378(c)). In addition, this evaluation supports the use of the certified Final EIR for the construction contract pursuant to CEQA Guidelines Section 15162 and adequately covers the actions required to implement the Plan. Therefore, the construction contract to implement the Plan would not require a subsequent environmental document pursuant to CEQA Guidelines Section 15162.

**If you are in agreement and can make a consistency determination, please complete the following, return a copy, and include one copy in the Planning Department's project file.**

Planning Department Concurrence Statement and Signature

I concur with the information and conclusion presented within this memo. This Memorandum reflects the Lead Agency's independent judgment and analysis and can be used by the City Decision-Maker or Mayor-Appointed Designee when approving the project.

Elena Pascual  
Signature

4/13/2023  
Date

Elena Pascual  
Senior Planner

Anastasia Brewster  
Senior Planner

- Attachments: 1. Memo from TSW to DSD dated June 17, 2019 (without attachments)  
2. Memo from Planning to TSW dated September 13, 2019  
3. Final EIR for MWMP (available electronically at <https://www.sandiego.gov/ceqa/final>)  
4. Mitigation Monitoring and Reporting Program for the Final EIR for the MWMP

cc: Anastasia Brewster, Senior Planner, Stormwater Department  
Emma Moan, Junior Planner, Stormwater Department  
Nathaniel Rees, Junior Planner, Stormwater Department  
Tara Ash-Reynolds, Associate Planner, Planning Department



**The City of San Diego**  
**MEMORANDUM**

**DATE:** June 17, 2019

**TO:** Helene Deisher, Development Project Manager II, Development Services Department

**FROM:** Jeremy Fontaine, Associate Planner, Transportation & Storm Water Department

**SUBJECT:** Final Wetland Mitigation Plan for 2015/16 Emergency Channel Maintenance

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Pursuant to the authorizations issued by the City of San Diego (City) Development Services Department (DSD) for emergency channel maintenance projects performed by the City Transportation & Storm Water Department (T&SWD) at several sites during the winter of 2015/2016, T&SWD hereby submits the *Final Wetland Mitigation Plan for 2015/16 Emergency Channel Maintenance* (Plan) (Attachment 1), prepared by Dudek, for your review, approval, and records. T&SWD and DSD staff previously met to discuss the scope and content of the Plan in November 2017.

The Plan outlines compensatory mitigation to partially satisfy the City's requirements for eight of 17 emergency channel maintenance projects performed during the winter of 2015/2016 by T&SWD under the former Master Storm Water System Maintenance Program (MMP). Compensatory mitigation owed for seven of the 17 emergency channel projects is wholly satisfied by the Plan in combination with credits previously purchased by T&SWD from the Stadium (San Diego River) Mitigation Site. Of the 10 remaining emergency projects, two did not require mitigation, two required only on-site restoration, and six are being mitigated through a combination of mitigation provided by the Plan and/or implementation of separate mitigation plans.

Attachment 2, which is also provided in Appendix C of the Plan, is a table that lists DSD approvals for the 17 emergency channel maintenance projects, including required compensatory mitigation under MMP Site Development Permit (SDP) No. 1134892 (Amended to SDP No. 2034245), and what portion of those mitigation requirements are fulfilled by the Plan and/or other separate mitigation plans. A detailed ledger for the seven emergency channel projects whose compensatory mitigation requirements are wholly satisfied by the Plan and Stadium (San Diego River) Mitigation Site is provided as Attachment 3.

## Plan Overview

The Plan consists of 2.92 acres of compensatory mitigation (1.01 acres of enhancement, 1.89 acres of rehabilitation, and 0.02 acre of re-establishment) located at four mitigation sites within the Pueblo San Diego Watershed. The Plan provides baseline mitigation site information, describes the mitigation site selection criteria, describes mitigation implementation and maintenance, and identifies ecological performance and monitoring requirements, among other information. Appendix C of the Plan also provides reasoning and justification for the following mitigation approach related to DSD-authorized impacts to natural flood channel (NFC) and open water (OW):

- The 2:1 mitigation ratio required for permanent impacts to NFC and OW are satisfied through off-site rehabilitation (restoration) mitigation at a ratio of 1:1 (no-net-loss) and on-site restoration at a ratio of 1:1 (enhancement).
- Mitigation for temporary impacts to NFC and southern willow scrub are satisfied through 1:1 on-site enhancement/restoration according to DSD approvals for specific channels (Auburn Map 67 & 68, Auburn Map 77, and Sorrento Map 12).

All 2.92 acres of compensatory mitigation proposed by the Plan are being used to partially satisfy the City's compensatory mitigation requirements for impacts associated with the seven emergency channel maintenance projects listed below, with all remaining compensatory mitigation for these seven projects being satisfied at the Stadium (San Diego River) Mitigation Site (Attachment 3). Rehabilitation (restoration) mitigation credit proposed by the Plan is used to satisfy the 1:1 no-net-loss of wetland functions and values established in the City Biology Guidelines (Attachment 4).

- Auburn Map 77
- Cottonwood Maps 120 & 121
- Chollas Map 71
- Chollas Maps 91 & 93
- Jamacha Map 115
- Washington Map 84
- Parkside Map 122

As shown in Attachment 2, of the 10 remaining emergency channel maintenance projects, two did not require mitigation and two required only on-site restoration, as follows:

- Titus
- Lobrigo

- Auburn Maps 67 & 68
- Sorrento Map 12

The remaining six emergency channel projects listed below are being mitigated through a combination of mitigation provided by the Plan and/or implementation of separate mitigation plans (Attachment 2). These mitigation plans and associated project close-out requests have been or will be submitted to DSD and applicable Regulatory Agencies for review and approval separate from this request.

- Auburn Map 70
- Via de la Bandola Map 130a
- Smythe Map 130
- Carroll Canyon
- Nestor Creek Map 134
- Friars Road and Colusa

#### **Request for Plan Approval and Project Close-out**

T&SWD is seeking the DSD's written approval acknowledging that the Plan, combined with the Stadium credits, wholly satisfies the mitigation requirements owed to the City for the seven emergency channel maintenance projects listed above.

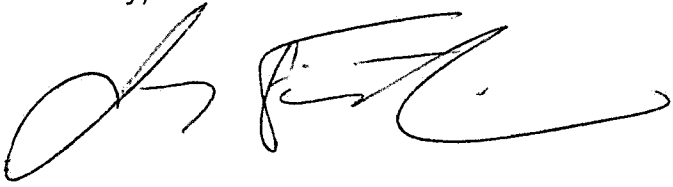
This Plan satisfies compensatory mitigation requirements for emergency projects that were found to be in substantial conformance with the former SDP and MMP Program Environmental Impact Report (EIR) at the time of project approval. The four mitigation sites included in the Plan were also analyzed in the former Program EIR (Attachment 5). However, the Program EIR has since become null and void. If DSD determines that additional environmental review of the Plan is required, T&SWD requests that the Plan be determined to be exempt pursuant California Environmental Quality Act Guidelines Section 15333 (Class 33).

This Plan must also be approved by the Regional Water Quality Control Board (RWQCB) to satisfy compensatory mitigation requirements owed to the RWQCB for the 2015/2016 emergency channel maintenance projects. T&SWD staff has been working closely with RWQCB staff on the development of this Plan and expect it will be approved by the RWQCB in summer 2019.

Please feel free to contact me by phone at (619) 527-7543 or e-mail at JFontaine@sandiego.gov with any questions.

Page 4  
Helene Deisher  
June 17, 2019

Sincerely,



Jeremy Fontaine  
Associate Planner

MM/jf

- Attachment(s):
1. Final Wetland Mitigation Plan for 2015/16 Emergency Channel Maintenance (via email)
  2. Table 1 – 2015–2016 Emergency Maintenance Impacts to Sensitive Jurisdictional Aquatic Resources and Proposed Mitigation (via email)
  3. Table 2 – Mitigation Ledger for Seven 2015–2016 Emergency Channel Maintenance Projects (via email)
  4. MMP Mitigation Clarification Memorandums (via email)
  5. MMP, Final Program Environmental Impact Report, and Master SDP (via email)

Distribution:

Helene Deisher, Development Project Manager II, Development Services Department  
Myra Herrmann, Senior Planner, Planning Department  
Kristen Forburger, Senior Planner, Planning Department

cc:

Roger Wammack, Assistant Deputy Director, Transportation & Storm Water Department  
Christine Rothman, Development Project Manager III, Transportation & Storm Water Department  
Mayra Medel, Senior Planner, Transportation & Storm Water Department  
Jeremy Fontaine, Associate Planner, Transportation & Storm Water Department



THE CITY OF SAN DIEGO  
M E M O R A N D U M

DATE: September 13, 2019

TO: Christine Rothman, Development Project Manager III, Transportation & Storm Water Department

FROM: Kristy Forburger, Development Project Manager III (OCA), Planning Department

SUBJECT: 2015/16 Emergency Channel Maintenance Mitigation Compliance

REFERENCE: *FINAL WETLAND MITIGATION PLAN for 2015/16 EMERGENCY CHANNEL MAINTENANCE City of San Diego Transportation & Storm Water Department (prepared by DUDEK) May 2019*

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The above reference Wetland Mitigation Plan combined with Stadium (San Diego River) Mitigation Credits provides adequate mitigation to meet the Regional Water Quality Control Board (RWQCB), City of San Diego (City) Development Services Department (DSD), and City of San Diego Planning Department (Multiple Species Conservation Program MSCP) requirements for eight (8) emergency channel maintenance projects performed at sites during the winter of 2015/16 by the City of San Diego Transportation & Storm Water Department (T&SWD).

cc: Mayra Medel, Senior Planner, TSW  
Myra Herrmann, Senior Planner, Planning Department  
Jeremy Fontaine, Associate Planner, TWS

EXHIBIT C

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

FINAL ENVIRONMENTAL IMPACT REPORT (FEIR)

FOR THE

MUNICIPAL WATERWAYS MAINTENANCE PLAN

PROJECT NUMBER 616992

SCH No. 2017071022

May 2020



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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. 2392210 and 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.

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## 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),

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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.

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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.

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- 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.

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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.

## GREENHOUSE GAS EMISSIONS

EP-SW-1 Waste Management Plan. See EP-SW-1 in Solid Waste, below.

EP-SW-2 Reusable Materials. See EP-SW-2 in Solid Waste, below.

EP-SW-3 Suitable Reuse. See EP-SW-3 in Solid Waste, below.

EP-SW-4 Green Waste. See EP-SW-4 in Solid Waste, below.

EP-SW-5 Tire Disposal. See EP-SW-5 in Solid Waste, below.

EP-SW-6 Material Diversion. See EP-SW-6 in Solid Waste, below.

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EP-SW-7 Landfill Notification. See EP-SW-7 in Solid Waste, below.

EP-SW-8 Composting. See EP-SW-8 in Solid Waste, below.

## 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



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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)

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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:

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- 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 impactful 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 impactful 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.

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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

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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.

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## 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.

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- 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:

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- 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.



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## 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.

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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<sup>1</sup>

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

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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;

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- 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

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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

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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.



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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).

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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:

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- 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.

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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

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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

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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 1/4 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),

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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

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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



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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

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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

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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:

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- 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 Reinternment 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).

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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.

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## 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.

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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,

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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



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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

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

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

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> Calculation-based methodology applied to derive beneficial water-quality-activity implementation quantities.

<sup>4</sup> 250 in-watershed parcels.

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

<sup>6</sup> 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.

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<sup>7</sup> 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

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(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

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*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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**APPENDIX B**  
**FIRE HYDRANT METER PROGRAM**



|   |                                |   |
|---|--------------------------------|---|
| <b>CITY OF SAN DIEGO CALIFORNIA<br/>DEPARTMENT INSTRUCTIONS</b>                                   | <b>NUMBER<br/>DI 55.27</b>     | <b>DEPARTMENT<br/>Water Department</b>          |
| <b>SUBJECT<br/><br/>FIRE HYDRANT METER PROGRAM<br/>(FORMERLY: CONSTRUCTION METER<br/>PROGRAM)</b> | <b>PAGE 1 OF 10</b>            | <b>EFFECTIVE DATE<br/><br/>October 15, 2002</b> |
|   | <b>SUPERSEDES<br/>DI 55.27</b> | <b>DATED<br/>April 21, 2000</b>                 |

1. **PURPOSE**

- 1.1 To establish a Departmental policy and procedure for issuance, proper usage and charges for fire hydrant meters.

2. **AUTHORITY**

- 2.1 All authorities and references shall be current versions and revisions.
- 2.2 San Diego Municipal Code (NC) Chapter VI, Article 7, Sections 67.14 and 67.15
- 2.3 Code of Federal Regulations, Safe Drinking Water Act of 1986
- 2.4 California Code of Regulations, Titles 17 and 22
- 2.5 California State Penal Code, Section 498B.0
- 2.6 State of California Water Code, Section 110, 500-6, and 520-23
- 2.7 Water Department Director

**Reference**

- 2.8 State of California Guidance Manual for Cross Connection Programs
- 2.9 American Water Works Association Manual M-14, Recommended Practice for Backflow Prevention
- 2.10 American Water Works Association Standards for Water Meters
- 2.11 U.S.C. Foundation for Cross Connection Control and Hydraulic Research Manual

3. **DEFINITIONS**

- 3.1 **Fire Hydrant Meter:** A portable water meter which is connected to a fire hydrant for the purpose of temporary use. (These meters are sometimes referred to as Construction Meters.)

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|---|--------------------------------|---|
| <b>CITY OF SAN DIEGO CALIFORNIA<br/>DEPARTMENT INSTRUCTIONS</b>                                   | <b>NUMBER<br/>DI 55.27</b>     | <b>DEPARTMENT<br/>Water Department</b>          |
| <b>SUBJECT<br/><br/>FIRE HYDRANT METER PROGRAM<br/>(FORMERLY: CONSTRUCTION METER<br/>PROGRAM)</b> | <b>PAGE 2 OF 10</b>            | <b>EFFECTIVE DATE<br/><br/>October 15, 2002</b> |
|   | <b>SUPERSEDES<br/>DI 55.27</b> | <b>DATED<br/>April 21, 2000</b>                 |

- 3.2 **Temporary Water Use:** Water provided to the customer for no longer than twelve (12) months.
- 3.3 **Backflow Preventor:** A Reduced Pressure Principal Assembly connected to the outlet side of a Fire Hydrant Meter.

4. **POLICY**

- 4.1 The Water Department shall collect a deposit from every customer requiring a fire hydrant meter and appurtenances prior to providing the meter and appurtenances (see Section 7.1 regarding the Fees and Deposit Schedule). The deposit is refundable upon the termination of use and return of equipment and appurtenances in good working condition.
- 4.2 Fire hydrant meters will have a 2 ½" swivel connection between the meter and fire hydrant. The meter shall not be connected to the 4" port on the hydrant. All Fire Hydrant Meters issued shall have a Reduced Pressure Principle Assembly (RP) as part of the installation. Spanner wrenches are the only tool allowed to turn on water at the fire hydrant.
- 4.3 The use of private hydrant meters on City hydrants is prohibited, with exceptions as noted below. All private fire hydrant meters are to be phased out of the City of San Diego. All customers who wish to continue to use their own fire hydrant meters must adhere to the following conditions:
  - a. Meters shall meet all City specifications and American Water Works Association (AWWA) standards.
  - b. Customers currently using private fire hydrant meters in the City of San Diego water system will be allowed to continue using the meter under the following conditions:
    - 1. The customer must submit a current certificate of accuracy and calibration results for private meters and private backflows annually to the City of San Diego, Water Department, Meter Shop.

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|---|--------------------------------|---|
| <b>CITY OF SAN DIEGO CALIFORNIA<br/>DEPARTMENT INSTRUCTIONS</b>                                   | <b>NUMBER<br/>DI 55.27</b>     | <b>DEPARTMENT<br/>Water Department</b>          |
| <b>SUBJECT<br/><br/>FIRE HYDRANT METER PROGRAM<br/>(FORMERLY: CONSTRUCTION METER<br/>PROGRAM)</b> | <b>PAGE 3 OF 10</b>            | <b>EFFECTIVE DATE<br/><br/>October 15, 2002</b> |
|   | <b>SUPERSEDES<br/>DI 55.27</b> | <b>DATED<br/>April 21, 2000</b>                 |

2. The meter must be properly identifiable with a clearly labeled serial number on the body of the fire hydrant meter. The serial number shall be plainly stamped on the register lid and the main casing. Serial numbers shall be visible from the top of the meter casing and the numbers shall be stamped on the top of the inlet casing flange.
3. All meters shall be locked to the fire hydrant by the Water Department, Meter Section (see Section 4.7).
4. All meters shall be read by the Water Department, Meter Section (see Section 4.7).
5. All meters shall be relocated by the Water Department, Meter Section (see Section 4.7).
6. These meters shall be tested on the anniversary of the original test date and proof of testing will be submitted to the Water Department, Meter Shop, on a yearly basis. If not tested, the meter will not be allowed for use in the City of San Diego.
7. All private fire hydrant meters shall have backflow devices attached when installed.
8. The customer must maintain and repair their own private meters and private backflows.
9. The customer must provide current test and calibration results to the Water Department, Meter Shop after any repairs.
10. When private meters are damaged beyond repair, these private meters will be replaced by City owned fire hydrant meters.

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|---|--------------------------------|---|
| <b>CITY OF SAN DIEGO CALIFORNIA<br/>DEPARTMENT INSTRUCTIONS</b>                                   | <b>NUMBER<br/>DI 55.27</b>     | <b>DEPARTMENT<br/>Water Department</b>          |
| <b>SUBJECT<br/><br/>FIRE HYDRANT METER PROGRAM<br/>(FORMERLY: CONSTRUCTION METER<br/>PROGRAM)</b> | <b>PAGE 4 OF 10</b>            | <b>EFFECTIVE DATE<br/><br/>October 15, 2002</b> |
|   | <b>SUPERSEDES<br/>DI 55.27</b> | <b>DATED<br/>April 21, 2000</b>                 |

11. When a private meter malfunctions, the customer will be notified and the meter will be removed by the City and returned to the customer for repairs. Testing and calibration results shall be given to the City prior to any re-installation.
  12. The register shall be hermetically sealed straight reading and shall be readable from the inlet side. Registration shall be in hundred cubic feet.
  13. The outlet shall have a 2 ½ “National Standards Tested (NST) fire hydrant male coupling.
  14. Private fire hydrant meters shall not be transferable from one contracting company to another (i.e. if a company goes out of business or is bought out by another company).
- 4.4 All fire hydrant meters and appurtenances shall be installed, relocated and removed by the City of San Diego, Water Department. All City owned fire hydrant meters and appurtenances shall be maintained by the City of San Diego, Water Department, Meter Services.
- 4.5 If any fire hydrant meter is used in violation of this Department Instruction, the violation will be reported to the Code Compliance Section for investigation and appropriate action. Any customer using a fire hydrant meter in violation of the requirements set forth above is subject to fines or penalties pursuant to the Municipal Code, Section 67.15 and Section 67.37.
- 4.6 Conditions and Processes for Issuance of a Fire Hydrant Meter**
- Process for Issuance
- a. Fire hydrant meters shall only be used for the following purposes:
    1. Temporary irrigation purposes not to exceed one year.

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|---|--------------------------------|---|
| <b>CITY OF SAN DIEGO CALIFORNIA<br/>DEPARTMENT INSTRUCTIONS</b>                                   | <b>NUMBER<br/>DI 55.27</b>     | <b>DEPARTMENT<br/>Water Department</b>          |
| <b>SUBJECT<br/><br/>FIRE HYDRANT METER PROGRAM<br/>(FORMERLY: CONSTRUCTION METER<br/>PROGRAM)</b> | <b>PAGE 5 OF 10</b>            | <b>EFFECTIVE DATE<br/><br/>October 15, 2002</b> |
|   | <b>SUPERSEDES<br/>DI 55.27</b> | <b>DATED<br/>April 21, 2000</b>                 |

2. Construction and maintenance related activities (see Tab 2).
  - b. No customer inside or outside the boundaries of the City of San Diego Water Department shall resell any portion of the water delivered through a fire hydrant by the City of San Diego Water Department.
  - c. The City of San Diego allows for the issuance of a temporary fire hydrant meter for a period not to exceed 12 months (365 days). An extension can only be granted in writing from the Water Department Director for up to 90 additional days. A written request for an extension by the consumer must be submitted at least 30 days prior to the 12 month period ending. No extension shall be granted to any customer with a delinquent account with the Water Department. No further extensions shall be granted.
  - d. Any customer requesting the issuance of a fire hydrant meter shall file an application with the Meter Section. The customer must complete a "Fire Hydrant Meter Application" (Tab 1) which includes the name of the company, the party responsible for payment, Social Security number and/or California ID, requested location of the meter (a detailed map signifying an exact location), local contact person, local phone number, a contractor's license (or a business license), description of specific water use, duration of use at the site and full name and address of the person responsible for payment.
  - e. At the time of the application the customer will pay their fees according to the schedule set forth in the Rate Book of Fees and Charges, located in the City Clerk's Office. All fees must be paid by check, money order or cashiers check, made payable to the City Treasurer. Cash will not be accepted.
  - f. No fire hydrant meters shall be furnished or relocated for any customer with a delinquent account with the Water Department.
  - g. After the fees have been paid and an account has been created, the

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|---|--------------------------------|---|
| <b>CITY OF SAN DIEGO CALIFORNIA<br/>DEPARTMENT INSTRUCTIONS</b>                                   | <b>NUMBER<br/>DI 55.27</b>     | <b>DEPARTMENT<br/>Water Department</b>          |
| <b>SUBJECT<br/><br/>FIRE HYDRANT METER PROGRAM<br/>(FORMERLY: CONSTRUCTION METER<br/>PROGRAM)</b> | <b>PAGE 6 OF 10</b>            | <b>EFFECTIVE DATE<br/><br/>October 15, 2002</b> |
|   | <b>SUPERSEDES<br/>DI 55.27</b> | <b>DATED<br/>April 21, 2000</b>                 |

meter shall be installed within 48 hours (by the second business day). For an additional fee, at overtime rates, meters can be installed within 24 hours (within one business day).

#### 4.7 Relocation of Existing Fire Hydrant Meters

- a. The customer shall call the Fire Hydrant Meter Hotline (herein referred to as “Hotline”), a minimum of 24 hours in advance, to request the relocation of a meter. A fee will be charged to the existing account, which must be current before a work order is generated for the meter’s relocation.
- b. The customer will supply in writing the address where the meter is to be relocated (map page, cross street, etc). The customer must update the original Fire Hydrant Meter Application with any changes as it applies to the new location.
- c. Fire hydrant meters shall be read on a monthly basis. While fire hydrant meters and backflow devices are in service, commodity, base fee and damage charges, if applicable, will be billed to the customer on a monthly basis. If the account becomes delinquent, the meter will be removed.

#### 4.8 Disconnection of Fire Hydrant Meter

- a. After ten (10) months a “Notice of Discontinuation of Service” (Tab 3) will be issued to the site and the address of record to notify the customer of the date of discontinuance of service. An extension can only be granted in writing from the Water Department Director for up to 90 additional days (as stated in Section 4.6C) and a copy of the extension shall be forwarded to the Meter Shop Supervisor. If an extension has not been approved, the meter will be removed after twelve (12) months of use.
- b. Upon completion of the project the customer will notify the Meter Services office via the Hotline to request the removal of the fire hydrant meter and appurtenances. A work order will be generated

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|---|--------------------------------|---|
| <b>CITY OF SAN DIEGO CALIFORNIA<br/>DEPARTMENT INSTRUCTIONS</b>                                   | <b>NUMBER<br/>DI 55.27</b>     | <b>DEPARTMENT<br/>Water Department</b>          |
| <b>SUBJECT<br/><br/>FIRE HYDRANT METER PROGRAM<br/>(FORMERLY: CONSTRUCTION METER<br/>PROGRAM)</b> | <b>PAGE 7 OF 10</b>            | <b>EFFECTIVE DATE<br/><br/>October 15, 2002</b> |
|   | <b>SUPERSEDES<br/>DI 55.27</b> | <b>DATED<br/>April 21, 2000</b>                 |

for removal of the meter.

- c. Meter Section staff will remove the meter and backflow prevention assembly and return it to the Meter Shop. Once returned to the Meter Shop the meter and backflow will be tested for accuracy and functionality.
- d. Meter Section Staff will contact and notify Customer Services of the final read and any charges resulting from damages to the meter and backflow or its appurtenance. These charges will be added on the customer's final bill and will be sent to the address of record. Any customer who has an outstanding balance will not receive additional meters.
- e. Outstanding balances due may be deducted from deposits and any balances refunded to the customer. Any outstanding balances will be turned over to the City Treasurer for collection. Outstanding balances may also be transferred to any other existing accounts.

5. **EXCEPTIONS**

- 5.1 Any request for exceptions to this policy shall be presented, in writing, to the Customer Support Deputy Director, or his/her designee for consideration.

6. **MOBILE METER**

- 6.1 Mobile meters will be allowed on a case by case basis. All mobile meters will be protected by an approved backflow assembly and the minimum requirement will be a Reduced Pressure Principal Assembly. The two types of Mobile Meters are vehicle mounted and floating meters. Each style of meters has separate guidelines that shall be followed for the customer to retain service and are described below:

- a) **Vehicle Mounted Meters:** Customer applies for and receives a City owned Fire Hydrant Meter from the Meter Shop. The customer mounts the meter on the vehicle and brings it to the Meter Shop for

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|---|--------------------------------|---|
| <b>CITY OF SAN DIEGO CALIFORNIA<br/>DEPARTMENT INSTRUCTIONS</b>                                   | <b>NUMBER<br/>DI 55.27</b>     | <b>DEPARTMENT<br/>Water Department</b>          |
| <b>SUBJECT<br/><br/>FIRE HYDRANT METER PROGRAM<br/>(FORMERLY: CONSTRUCTION METER<br/>PROGRAM)</b> | <b>PAGE 8 OF 10</b>            | <b>EFFECTIVE DATE<br/><br/>October 15, 2002</b> |
|   | <b>SUPERSEDES<br/>DI 55.27</b> | <b>DATED<br/>April 21, 2000</b>                 |

inspection. After installation is approved by the Meter Shop the vehicle and meter shall be brought to the Meter Shop on a monthly basis for meter reading and on a quarterly basis for testing of the backflow assembly. Meters mounted at the owner's expense shall have the one year contract expiration waived and shall have meter or backflow changed if either fails.

b) **Floating Meters:** Floating Meters are meters that are not mounted to a vehicle. **(Note: All floating meters shall have an approved backflow assembly attached.)** The customer shall submit an application and a letter explaining the need for a floating meter to the Meter Shop. The Fire Hydrant Meter Administrator, after a thorough review of the needs of the customer, (i.e. number of jobsites per day, City contract work, lack of mounting area on work vehicle, etc.), may issue a floating meter. At the time of issue, it will be necessary for the customer to complete and sign the "Floating Fire Hydrant Meter Agreement" which states the following:

- 1) The meter will be brought to the Meter Shop at 2797 Caminito Chollas, San Diego on the third week of each month for the monthly read by Meter Shop personnel.
- 2) Every other month the meter will be read and the backflow will be tested. This date will be determined by the start date of the agreement.

If any of the conditions stated above are not met the Meter Shop has the right to cancel the contract for floating meter use and close the account associated with the meter. The Meter Shop will also exercise the right to refuse the issuance of another floating meter to the company in question.

Any Fire Hydrant Meter using reclaimed water shall not be allowed use again with any potable water supply. The customer shall incur the cost of replacing the meter and backflow device in this instance.



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|---|--------------------------------|---|
| <b>CITY OF SAN DIEGO CALIFORNIA<br/>DEPARTMENT INSTRUCTIONS</b>                                   | <b>NUMBER<br/>DI 55.27</b>     | <b>DEPARTMENT<br/>Water Department</b>          |
| <b>SUBJECT<br/><br/>FIRE HYDRANT METER PROGRAM<br/>(FORMERLY: CONSTRUCTION METER<br/>PROGRAM)</b> | <b>PAGE 9 OF 10</b>            | <b>EFFECTIVE DATE<br/><br/>October 15, 2002</b> |
|   | <b>SUPERSEDES<br/>DI 55.27</b> | <b>DATED<br/>April 21, 2000</b>                 |

7. **FEE AND DEPOSIT SCHEDULES**

- 7.1 **Fees and Deposit Schedules:** The fees and deposits, as listed in the Rate Book of Fees and Charges, on file with the Office of the City Clerk, are based on actual reimbursement of costs of services performed, equipment and materials. These deposits and fees will be amended, as needed, based on actual costs. Deposits, will be refunded at the end of the use of the fire hydrant meter, upon return of equipment in good working condition and all outstanding balances on account are paid. Deposits can also be used to cover outstanding balances.

All fees for equipment, installation, testing, relocation and other costs related to this program are subject to change without prior notification. The Mayor and Council will be notified of any future changes.

8. **UNAUTHORIZED USE OF WATER FROM A HYDRANT**

- 8.1 Use of water from any fire hydrant without a properly issued and installed fire hydrant meter is theft of City property. Customers who use water for unauthorized purposes or without a City of San Diego issued meter will be prosecuted.
- 8.2 If any unauthorized connection, disconnection or relocation of a fire hydrant meter, or other connection device is made by anyone other than authorized Water Department personnel, the person making the connection will be prosecuted for a violation of San Diego Municipal Code, Section 67.15. In the case of a second offense, the customer's fire hydrant meter shall be confiscated and/or the deposit will be forfeited.
- 8.3 Unauthorized water use shall be billed to the responsible party. Water use charges shall be based on meter readings, or estimates when meter readings are not available.
- 8.4 In case of unauthorized water use, the customer shall be billed for all applicable charges as if proper authorization for the water use had been obtained, including but not limited to bi-monthly service charges, installation charges and removal charges.

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|---|--------------------------------|---|
| <b>CITY OF SAN DIEGO CALIFORNIA<br/>DEPARTMENT INSTRUCTIONS</b>                                   | <b>NUMBER<br/>DI 55.27</b>     | <b>DEPARTMENT<br/>Water Department</b>          |
| <b>SUBJECT<br/><br/>FIRE HYDRANT METER PROGRAM<br/>(FORMERLY: CONSTRUCTION METER<br/>PROGRAM)</b> | <b>PAGE 10 OF 10</b>           | <b>EFFECTIVE DATE<br/><br/>October 15, 2002</b> |
|   | <b>SUPERSEDES<br/>DI 55.27</b> | <b>DATED<br/>April 21, 2000</b>                 |

- 8.5 If damage occurs to Water Department property (i.e. fire hydrant meter, backflow, various appurtenances), the cost of repairs or replacements will be charged to the customer of record (applicant).

**Water Department Director**

- Tabs: 1. Fire Hydrant Meter Application  
2. Construction & Maintenance Related Activities With No Return To Sewer  
3. Notice of Discontinuation of Service

**APPENDIX**

**Administering Division:** Customer Support Division

**Subject Index:** Construction Meters  
Fire Hydrant  
Fire Hydrant Meter Program  
Meters, Floating or Vehicle Mounted  
Mobile Meter  
Program, Fire Hydrant Meter

**Distribution:** DI Manual Holders



# Application for Fire Hydrant Meter (EXHIBIT A)

(For Office Use Only)

|        |      |
|--------|------|
| NS REQ | FAC# |
| DATE   | BY   |

METER SHOP (619) 527-7449

## Meter Information

|                  |                         |
|------------------|-------------------------|
| Application Date | Requested Install Date: |
|------------------|-------------------------|

|   |                          |                              |
|---|--------------------------|------------------------------|
| Fire Hydrant Location: (Attach Detailed Map//Thomas Bros. Map Location or Construction drawing.)<br><u>Zip:</u> | T.B.                     | G.B. (CITY USE)              |
| Specific Use of Water:  |                          |                              |
| Any Return to Sewer or Storm Drain, if so, explain:   |                          |                              |
| Estimated Duration of Meter Use: <input type="text"/>   | <input type="checkbox"/> | Check Box if Reclaimed Water |

## Company Information

|  |        |                      |            |
|--|--------|----------------------|------------|
| Company Name:  |        |                      |            |
| Mailing Address:   |        |                      |            |
| City:  | State: | Zip:                 | Phone: ( ) |
| *Business license#   |        | *Contractor license# |            |
| A Copy of the Contractor's license OR Business License is required at the time of meter issuance.  |        |                      |            |
| Name and Title of Billing Agent:<br><small>(PERSON IN ACCOUNTS PAYABLE)</small>  |        |                      | Phone: ( ) |
| Site Contact Name and Title:   |        |                      | Phone: ( ) |
| Responsible Party Name:  |        |                      | Title:     |
| Cal ID#  |        |                      | Phone: ( ) |
| Signature:   |        | Date:                |            |
| <small>Guarantees Payment of all Charges Resulting from the use of this Meter. Insures that employees of this Organization understand the proper use of Fire Hydrant Meter</small> |        |                      |            |

|   |                         |
|---|-------------------------|
| <b>Fire Hydrant Meter Removal Request</b>               | Requested Removal Date: |
| Provide Current Meter Location if Different from Above: |                         |
| Signature:  | Title: Date:            |
| Phone: ( )  | Pager: ( )              |

|                                     |   |
|-------------------------------------|---|
| <input type="checkbox"/> City Meter | <input type="checkbox"/> Private Meter                        |
| Contract Acct #:                    | Deposit Amount: <b>\$ 936.00</b> Fees Amount: <b>\$ 62.00</b> |
| Meter Serial #                      | Meter Size: <b>05</b> Meter Make and Style: <b>6-7</b>        |
| Backflow #                          | Backflow Size: Backflow Make and Style:                       |
| Name:                               | Signature: Date:  |

**WATER USES WITHOUT ANTICIPATED CHARGES FOR RETURN TO SEWER**

Auto Detailing  
Backfilling  
Combination Cleaners (Vactors)  
Compaction  
Concrete Cutters  
Construction Trailers  
Cross Connection Testing  
Dust Control  
Flushing Water Mains  
Hydro Blasting  
Hydro Seeing  
Irrigation (for establishing irrigation only; not continuing irrigation)  
Mixing Concrete  
Mobile Car Washing  
Special Events  
Street Sweeping  
Water Tanks  
Water Trucks  
Window Washing

**Note:**

1. If there is any return to sewer or storm drain, then sewer and/or storm drain fees will be charges.

Date

Name of Responsible Party  
Company Name and Address  
Account Number: \_\_\_\_\_

Subject: Discontinuation of Fire Hydrant Meter Service

Dear Water Department Customer:

The authorization for use of Fire Hydrant Meter # \_\_\_\_\_, located at (*Meter Location Address*) ends in 60 days and will be removed on or after (*Date Authorization Expires*). Extension requests for an additional 90 days must be submitted in writing for consideration 30 days prior to the discontinuation date. If you require an extension, please contact the Water Department, or mail your request for an extension to:

City of San Diego  
Water Department  
Attention: Meter Services  
2797 Caminito Chollas  
San Diego, CA 92105-5097

Should you have any questions regarding this matter, please call the Fire Hydrant Hotline at (619) \_\_\_\_\_ - \_\_\_\_\_.

Sincerely,

Water Department

**APPENDIX C**

**MATERIALS TYPICALLY ACCEPTED BY CERTIFICATE OF COMPLIANCE**

## **MATERIALS TYPICALLY ACCEPTED BY CERTIFICATE OF COMPLIANCE**

1. Soil amendment
2. Fiber mulch
3. PVC or PE pipe up to 16 inch diameter
4. Stabilizing emulsion
5. Lime
6. Preformed elastomeric joint seal
7. Plain and fabric reinforced elastomeric bearing pads
8. Steel reinforced elastomeric bearing pads
9. Waterstops (Special Condition)
10. Epoxy coated bar reinforcement
11. Plain and reinforcing steel
12. Structural steel
13. Structural timber and lumber
14. Treated timber and lumber
15. Lumber and timber
16. Aluminum pipe and aluminum pipe arch
17. Corrugated steel pipe and corrugated steel pipe arch
18. Structural metal plate pipe arches and pipe arches
19. Perforated steel pipe
20. Aluminum underdrain pipe
21. Aluminum or steel entrance tapers, pipe downdrains, reducers, coupling bands and slip joints
22. Metal target plates
23. Paint (traffic striping)
24. Conductors
25. Painting of electrical equipment
26. Electrical components
27. Engineering fabric
28. Portland Cement
29. PCC admixtures
30. Minor concrete, asphalt
31. Asphalt (oil)
32. Liquid asphalt emulsion
33. Epoxy

**APPENDIX D**

**SAMPLE CITY INVOICE WITH CASH FLOW FORECAST**





|                             |                 |
|-----------------------------|-----------------|
| WBS #:                      | B18108          |
| Date Submitted:             | 10/10/2018      |
| NTP Date:                   | 3/23/2018       |
| Final Statement of WD Date: | 5/23/2020       |
| Contract #:                 | K-XX-XXXX-XXX-X |
| Contract Amount:            | \$5,617,000     |

## Construction Cash Flow Forecast

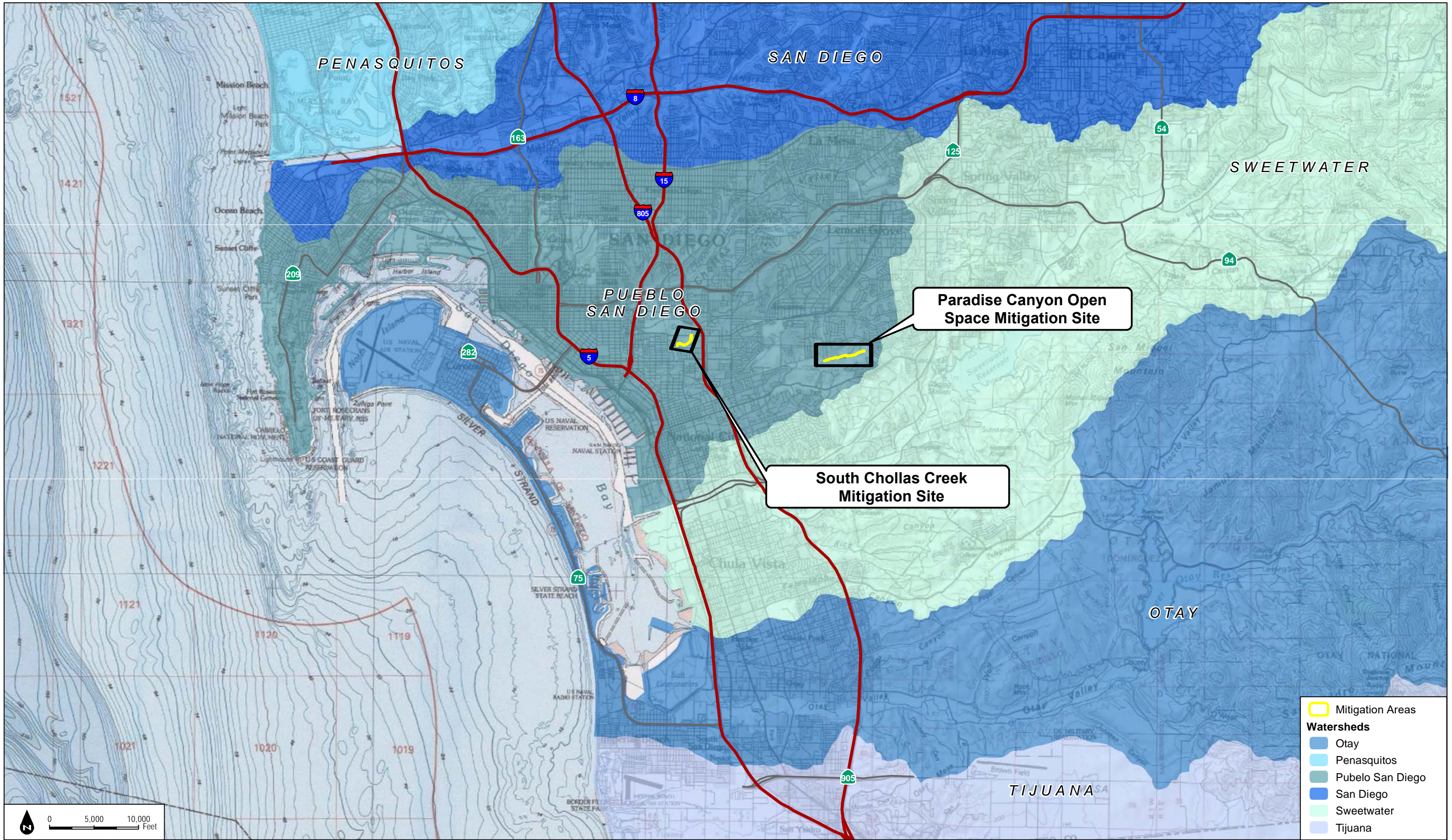
"Sewer and Water Group Job 965 (W)"

| Year | January | February | March   | April     | May       | June    | July    | August  | September | October | November  | December  |
|------|---------|----------|---------|-----------|-----------|---------|---------|---------|-----------|---------|-----------|-----------|
| 2018 |         |          |         | 15,000    | 25,000    | 52,000  | 52,000  | 100,000 | 10,000    | 100,000 | 100,000   | 100,000   |
| 2019 | 10,000  | 10,000   | 85,000  | 58,000    | 100,000   | 100,000 | 100,000 | 100,000 | 100,000   | 100,000 | 1,000,000 | 1,000,000 |
| 2020 | 100,000 | 100,000  | 100,000 | 1,000,000 | 1,000,000 |         |         |         |           |         |           |           |
| 2021 |         |          |         |           |           |         |         |         |           |         |           |           |
| 2022 |         |          |         |           |           |         |         |         |           |         |           |           |
| 2023 |         |          |         |           |           |         |         |         |           |         |           |           |
| 2024 |         |          |         |           |           |         |         |         |           |         |           |           |
| 2025 |         |          |         |           |           |         |         |         |           |         |           |           |

SAMPLE REFERENCE

**APPENDIX E**  
**VICINITY MAP**





- Mitigation Areas
- Watersheds**
- Otay
- Penasquitos
- Pueblo San Diego
- San Diego
- Sweetwater
- Tijuana




**South Chollas Creek and Paradise Canyon Open Space Wetland Mitigation Project**  
 Project Manager: Anastasia Brewster | Senior Engineer: Jillian Haynes

Wetlands Mitigation Plan for 2015/16 Emergency Channel Maintenance - City of San Diego | City Council Districts: 4 & 8 | IO: 21005027

**Vicinity Map**

SOURCE: USGS, 2016; SANGIS, 2015.



**APPENDIX F**  
**SAMPLE ARCHAEOLOGY INVOICE**

**(FOR ARCHAEOLOGY ONLY)**

**Company Name**

**Address, telephone, fax**

**Date:** Insert Date

**To:** Name of Resident Engineer  
City of San Diego  
Construction Management and  
Field Services Division  
9573 Chesapeake Drive  
San Diego, CA 92123-1304

**Project Name:** Insert Project Name

**SAP Number (WBS/IO/CC):** Insert SAP Number

**Drawing Number:** Insert Drawing Number

**Invoice period:** Insert Date to Insert Date

**Work Completed:** Bid item Number – Description of Bid Item – Quantity – Unit Price– Amount

**Detailed summary of work completed under this bid item:** Insert detailed description of Work related to Archaeology Monitoring Bid item. See Note 1 below.

Summary of charges:

| Description of Services | Name      | Start Date | End Date | Total Hours | Hourly Rate | Amount  |
|-------------------------|-----------|------------|----------|-------------|-------------|---------|
| Field Archaeologist     | Joe Smith | 8/29/2011  | 9/2/2011 | 40          | \$84        | \$3,360 |
| Laboratory Assistant    | Jane Doe  | 8/29/2011  | 9/2/2011 | 2           | \$30        | \$60    |
| Subtotal                |           |            |          |             |             | \$3,420 |

**Work Completed:** Bid item Number – Description of Bid Item – Quantity – Unit Price– Amount

**Detailed summary of work completed under this bid item:** Insert detailed description of Work related to Archaeology Curation/Discovery Bid item. See Note 2 below.

Summary of charges:

| Description of Services | Where work occurred (onsite vs offsite/lab) | Name      | Start Date | End Date | Total Hours | Hourly Rate | Amount  |
|-------------------------|---|-----------|------------|----------|-------------|-------------|---------|
| Field Archaeologist     |   | Joe Smith | 8/29/2011  | 9/2/2011 | 40          | \$84        | \$3,360 |
| Laboratory Assistant    |   | Jane Doe  | 8/29/2011  | 9/2/2011 | 2           | \$30        | \$60    |
| Subtotal                |   |           |            |          |             |             | \$3,420 |

**Total this invoice:** \$ \_\_\_\_\_

**Total invoiced to date:** \$ \_\_\_\_\_

Note 1:

For monitoring related bid items or work please include summary of construction work that was monitored from Station to Station, Native American monitors present, MMC coordination, status and nature of monitoring and if any discoveries were made.

Note 2:

For curation/discovery related bid items or work completed as part of a discovery and curation process, the PI must provide a response to the following questions along with the invoice:

1. Preliminary results of testing including tentative recommendations regarding eligibility for listing in the California Register of Historical Resources (California Register).
  - a. Please briefly describe your application (consideration) of all four California Register criteria.
  - b. If the resource is eligible under Criterion D, please define the important information that may be present.
  - c. Were specialized studies performed? How many personnel were required? How many Native American monitors were present?
  - d. What is the age of the resource?
  - e. Please define types of artifacts to be collected and curated, including quantity of boxes to be submitted to the San Diego Archaeological Center (SDAC). How many personnel were required? How many Native American monitors were present?
2. Preliminary results of data recovery and a definition of the size of the representative sample.
  - a. Were specialized studies performed? Please define types of artifacts to be collected and curated, including quantity of boxes to be submitted to the SDAC. How many personnel were required? How many Native American monitors were present?
3. What resources were discovered during monitoring?
4. What is the landform context and what is the integrity of the resources?
5. What additional studies are necessary?
6. Based on application of the California Register criteria, what is the significance of the resources?
  - a. If the resource is eligible for the California Register, can the resource be avoided by construction?
  - b. If not, what treatment (mitigation) measures are proposed? Please define data to be recovered (if necessary) and what material will be submitted to the SDAC for curation. Are any specialized studies proposed?

(After the first invoice, not all the above information needs to be re-stated, just revise as applicable).

**APPENDIX G**  
**SAMPLE OF PUBLIC NOTICE**





## CONSTRUCTION NOTICE

### PROJECT TITLE

Work on your street will begin within one week to replace the existing water mains servicing your community.

#### The work will consist of:

- Saw-cutting and trench work on Ingulf Street from Morena Boulevard to Galveston Street to install new water mains, water laterals and fire hydrants.
- Streets where trenching takes place will be resurfaced and curb ramps will be upgraded to facilitate access for persons with disabilities where required.
- This work is anticipated to be complete in your community by December 2016.

#### How your neighborhood may be impacted:

- Water service to some properties during construction will be provided by a two-inch highline pipe that will run along the curb. To report a highline leak call 619-515-3525.
- Temporary water service disruptions are planned. If planned disruptions impact your property, you will receive advance notice.
- Parking restrictions will exist because of the presence of construction equipment and materials.
- "No Parking" signs will be displayed 72 hours in advance of the work.
- Cars parked in violation of signs will be TOWED.

#### Hours and Days of Operation:

Monday through Friday X:XX AM to X:XX PM.

#### City of San Diego Contractor:

Company Name, XXX-XXX-XXXX



## CONSTRUCTION NOTICE

### PROJECT TITLE

Work on your street will begin within one week to replace the existing water mains servicing your community.

#### The work will consist of:

- Saw-cutting and trench work on Ingulf Street from Morena Boulevard to Galveston Street to install new water mains, water laterals and fire hydrants.
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- "No Parking" signs will be displayed 72 hours in advance of the work.
- Cars parked in violation of signs will be TOWED.

#### Hours and Days of Operation:

Monday through Friday X:XX AM to X:XX PM.

#### City of San Diego Contractor:

Company Name, XXX-XXX-XXXX

**ATTACHMENT F**

**RESERVED**

**ATTACHMENT G**  
**CONTRACT AGREEMENT**

**ATTACHMENT G**  
**CONTRACT AGREEMENT**

---

**CONSTRUCTION CONTRACT**

This contract is made and entered into between THE CITY OF SAN DIEGO, a municipal corporation, herein called "City", and Tri-Group Construction & Development, Inc., herein called "Contractor" for construction of **South Chollas Creek and Paradise Canyon Open Space Wetland Mitigation Project**; Bid No. **L-23-2188-DBB-2**; in the total amount of Nine Hundred Ninety Seven Thousand Nine Hundred Seventy Eight Dollars and Zero Cents (\$997,978.00)

IN CONSIDERATION of the payments to be made hereunder and the mutual undertakings of the parties hereto, City and Contractor agree as follows:

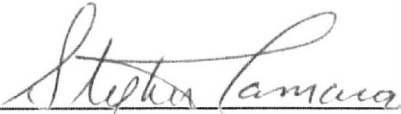
1. The following are incorporated into this contract as though fully set forth herein:
  - (a) The attached Faithful Performance and Payment Bonds.
  - (b) The attached Proposal included in the Bid documents by the Contractor.
  - (c) Reference Standards listed in the Instruction to Bidders and the Supplementary Special Provisions (SSP).
  - (d) That certain documents entitled **South Chollas Creek and Paradise Canyon Open Space Wetland Mitigation Project**, on file in the office of the Purchasing & Contracting Department as Document No. **21005027**, as well as all matters referenced therein.
2. The Contractor shall perform and be bound by all the terms and conditions of this contract and in strict conformity therewith shall perform and complete in a good and workmanlike manner **South Chollas Creek and Paradise Canyon Open Space Wetland Mitigation Project**, Bid Number **L-23-2188-DBB-2**, San Diego, California.
3. For such performances, the City shall pay to Contractor the amounts set forth at the times and in the manner and with such additions or deductions as are provided for in this contract, and the Contractor shall accept such payment in full satisfaction of all claims incident to such performances.
4. No claim or suit whatsoever shall be made or brought by Contractor against any officer, agent, or employee of the City for or on account of anything done or omitted to be done in connection with this contract, nor shall any such officer, agent, or employee be liable hereunder.
5. This contract is effective as of the date that the Mayor or designee signs the agreement and is approved by the City Attorney in accordance with San Diego Charter Section 40.

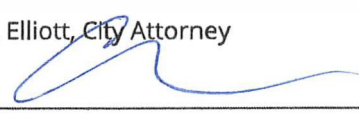
**CONTRACT AGREEMENT (continued)**

**IN WITNESS WHEREOF**, this Agreement is signed by the City of San Diego, acting by and through its Mayor or designee, pursuant to Municipal Code §22.3102 authorizing such execution.

**THE CITY OF SAN DIEGO**

**APPROVED AS TO FORM**

By 

Mara W. Elliott, City Attorney  
By 


Print Name: Stephen Samara  
Principal Contract Specialist  
Purchasing & Contracting Department

Print Name: Corrine Neuffer  
Deputy City Attorney

Date: 9/27/2023

Date: 9-28-23

**CONTRACTOR**

By   
**HANI ASSI**

Print Name: \_\_\_\_\_

**SECRETARY OF CORPORATION**

Title: \_\_\_\_\_

Date: 8.15.23

City of San Diego License No.: B2003004679

State Contractor's License No.: 792159

DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION NUMBER: 1000004777

## **CERTIFICATIONS AND FORMS**

The Bidder, by submitting its electronic bid, agrees to and certifies under penalty of perjury under the laws of the State of California, that the certifications, forms and affidavits submitted as part of this bid are true and correct.

## **BIDDER'S GENERAL INFORMATION**

To the City of San Diego:

Pursuant to "Notice Inviting Bids", specifications, and requirements on file with the City Clerk, and subject to all provisions of the Charter and Ordinances of the City of San Diego and applicable laws and regulations of the United States and the State of California, the undersigned hereby proposes to furnish to the City of San Diego, complete at the prices stated herein, the items or services hereinafter mentioned. The undersigned further warrants that this bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

The undersigned bidder(s) further warrants that bidder(s) has thoroughly examined and understands the entire Contract Documents (plans and specifications) and the Bidding Documents therefore, and that by submitting said Bidding Documents as its bid proposal, bidder(s) acknowledges and is bound by the entire Contract Documents, including any addenda issued thereto, as such Contract Documents incorporated by reference in the Bidding Documents.

**NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID UNDER 23  
UNITED STATES CODE 112 AND PUBLIC CONTRACT CODE 7106**

State of California

County of San Diego

The bidder, being first duly sworn, deposes and says that he or she is authorized by the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.



## **CONTRACTOR CERTIFICATION**

---

### **DRUG-FREE WORKPLACE**

I hereby certify that I am familiar with the requirements of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the WHITEBOOK, Section 5-1.3, "Drug-Free Workplace", of the project specifications, and that;

This company has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the subcontractor's agreement to abide by the provisions of subdivisions a) through c) of the policy as outlined.

## **CONTRACTOR CERTIFICATION**

---

### **AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE CERTIFICATION**

I hereby certify that I am familiar with the requirements of San Diego City Council Policy No. 100-4 regarding the Americans With Disabilities Act (ADA) outlined in the WHITEBOOK, Section 5-1.2, "California Building Code, California Code of Regulations Title 24 and Americans with Disabilities Act". of the project specifications, and that:

This company has in place workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the subcontractor's agreement to abide by the provisions of the policy as outlined.

## **CONTRACTOR CERTIFICATION**

---

### **CONTRACTOR STANDARDS – PLEDGE OF COMPLIANCE**

I declare under penalty of perjury that I am authorized to make this certification on behalf of the company submitting this bid/proposal, that as Contractor, I am familiar with the requirements of City of San Diego Municipal Code § 22.3004 regarding Contractor Standards as outlined in the WHITEBOOK, Section 5-1.4, ("Contractor Standards and Pledge of Compliance"), of the project specifications, and that Contractor has complied with those requirements.

I further certify that each of the Contractor's subcontractors has completed a Pledge of Compliance attesting under penalty of perjury of having complied with City of San Diego Municipal Code § 22.3004.

## **CONTRACTOR CERTIFICATION**

---

### **EQUAL BENEFITS ORDINANCE CERTIFICATION**

I declare under penalty of perjury that I am familiar with the requirements of and in compliance with the City of San Diego Municipal Code § 22.4300 regarding Equal Benefits Ordinance.

## **CONTRACTOR CERTIFICATION**

---

### **EQUAL PAY ORDINANCE CERTIFICATION**

Contractor shall comply with the Equal Pay Ordinance (EPO) codified in the San Diego Municipal Code (SDMC) at section 22.4801 through 22.4809, unless compliance is not required based on an exception listed in SDMC section 22.4804.

Contractor shall require all of its subcontractors to certify compliance with the EPO in their written subcontracts.

Contractor must post a notice informing its employees of their rights under the EPO in the workplace or job site.

By signing this Contract with the City of San Diego, Contractor acknowledges the EPO requirements and pledges ongoing compliance with the requirements of SDMC Division 48, section 22.4801 et seq., throughout the duration of this Contract.

## **CONTRACTOR CERTIFICATION**

---

### **PRODUCT ENDORSEMENT**

I declare under penalty of perjury that I acknowledge and agree to comply with the provisions of City of San Diego Administrative Regulation 95.65, concerning product endorsement. Any advertisement identifying or referring to the City as the user of a product or service requires the prior written approval of the City.

**AFFIDAVIT OF DISPOSAL**

(To be submitted upon completion of Construction pursuant to the contracts Certificate of Completion)

**WHEREAS**, on the \_\_\_\_\_ DAY OF \_\_\_\_\_, 2\_\_\_\_ the undersigned entered into and executed a contract with the City of San Diego, a municipal corporation, for:

**South Chollas Creek and Paradise Canyon Open Space Wetland Mitigation Project**  
(Project Title)

as particularly described in said contract and identified as Bid No. **L-23-2188-DBB-2**; SAP No. (IO) **21005027**; and **WHEREAS**, the specification of said contract requires the Contractor to affirm that "all brush, trash, debris, and surplus materials resulting from this project have been disposed of in a legal manner"; and **WHEREAS**, said contract has been completed and all surplus materials disposed of:

\_\_\_\_\_  
\_\_\_\_\_

**NOW, THEREFORE**, in consideration of the final payment by the City of San Diego to said Contractor under the terms of said contract, the undersigned Contractor, does hereby affirm that all surplus materials as described in said contract have been disposed of at the following location(s)

\_\_\_\_\_  
\_\_\_\_\_

and that they have been disposed of according to all applicable laws and regulations.

Dated this \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

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

**ATTEST:**

State of \_\_\_\_\_ County of \_\_\_\_\_

On this \_\_\_\_\_ DAY OF \_\_\_\_\_, 2\_\_\_\_, before the undersigned, a Notary Public in and for said County and State, duly commissioned and sworn, personally appeared \_\_\_\_\_ known to me to be the \_\_\_\_\_ Contractor named in the foregoing Release, and whose name is subscribed thereto, and acknowledged to me that said Contractor executed the said Release.

Notary Public in and for said County and State

**LIST OF SUBCONTRACTORS**

**\*\*\* PROVIDED FOR ILLUSTRATIVE PURPOSES ONLY \*\*\* TO BE SUBMITTED IN ELECTRONIC FORMAT ONLY\*\*\* SEE INSTRUCTIONS TO BIDDERS, FOR FURTHER INFORMATION**

In accordance with the requirements of the "Subletting and Subcontracting Fair Practices Act", Section 4100, of the California Public Contract Code (PCC), the Bidder is to list below the name, address and license number of each Subcontractor who will perform work, labor, render services or specially fabricate and install a portion [type] of the work or improvement, in an amount of or in excess of 0.5% of the Contractor's total Bid. Failure to comply with this requirement may result in the Bid being rejected as non-responsive. The Contractor is to list only one Subcontractor for each portion of the Work. The Bidder's attention is directed to the Special Provisions – General; Paragraph 2-3 Subcontracts, which stipulates the percentage of the Work to be performed with the Bidder's own forces. The Bidder is to also list all SLBE, ELBE, DBE, DVBE, MBE, WBE, OBE, SDB, WoSB, HUBZone, and SDVOSB Subcontractors for which the Bidders are seeking recognition towards achieving any mandatory, voluntary, or both subcontracting participation percentages.

| NAME, ADDRESS AND TELEPHONE NUMBER OF SUBCONTRACTOR  | CONSTRUCTOR OR DESIGNER | SUBCONTRACTOR LICENSE NUMBER | TYPE OF WORK | DOLLAR VALUE OF SUBCONTRACT | MBE, WBE, DBE, DVBE, OBE, ELBE, SLBE, SDB, WoSB, HUBZone, OR SDVOSB® | WHERE CERTIFIED® | CHECK IF JOINT VENTURE PARTNERSHIP |
|--|-------------------------|------------------------------|--------------|-----------------------------|--|------------------|------------------------------------|
| Name: _____<br>Address: _____<br>City: _____<br>State: _____<br>Zip: _____<br>Phone: _____<br>Email: _____ |                         |                              |              |                             |  |                  |                                    |
| Name: _____<br>Address: _____<br>City: _____<br>State: _____<br>Zip: _____<br>Phone: _____<br>Email: _____ |                         |                              |              |                             |  |                  |                                    |

- ① As appropriate, Bidder shall identify Subcontractor as one of the following and shall include a valid proof of certification (except for OBE, SLBE and ELBE):
- |   |        |  |         |
|---|--------|--|---------|
| Certified Minority Business Enterprise        | MBE    | Certified Woman Business Enterprise            | WBE     |
| Certified Disadvantaged Business Enterprise   | DBE    | Certified Disabled Veteran Business Enterprise | DVBE    |
| Other Business Enterprise                     | OBE    | Certified Emerging Local Business Enterprise   | ELBE    |
| Certified Small Local Business Enterprise     | SLBE   | Small Disadvantaged Business                   | SDB     |
| Woman-Owned Small Business                    | WoSB   | HUBZone Business                               | HUBZone |
| Service-Disabled Veteran Owned Small Business | SDVOSB |  |         |
- ② As appropriate, Bidder shall indicate if Subcontractor is certified by:
- |  |        |  |          |
|--|--------|--|----------|
| City of San Diego                                    | CITY   | State of California Department of Transportation | CALTRANS |
| California Public Utilities Commission               | CPUC   |  |          |
| State of California's Department of General Services | CADoGS | City of Los Angeles                              | LA       |
| State of California                                  | CA     | U.S. Small Business Administration               | SBA      |

**The Bidder will not receive any subcontracting participation percentages if the Bidder fails to submit the required proof of certification.**



**NAMED EQUIPMENT/MATERIAL SUPPLIER LIST**

**\*\*\* PROVIDED FOR ILLUSTRATIVE PURPOSES ONLY \*\*\* TO BE SUBMITTED IN ELECTRONIC FORMAT ONLY \*\*\* SEE INSTRUCTIONS TO BIDDERS FOR FURTHER INFORMATION**

| NAME, ADDRESS AND TELEPHONE NUMBER OF VENDOR/SUPPLIER  | MATERIALS OR SUPPLIES | DOLLAR VALUE OF MATERIAL OR SUPPLIES | SUPPLIER (Yes/No) | MANUFACTURER (Yes/No) | MBE, WBE, DBE, DVBE, OBE, ELBE, SLBE, SDB, WoSB, HUBZone, OR SDVOSB <sup>①</sup> | WHERE CERTIFIED <sup>②</sup> |
|--|-----------------------|--------------------------------------|-------------------|-----------------------|--|------------------------------|
| Name: _____<br>Address: _____<br>City: _____<br>State: _____<br>Zip: _____<br>Phone: _____<br>Email: _____ |                       |                                      |                   |                       |  |                              |
| Name: _____<br>Address: _____<br>City: _____<br>State: _____<br>Zip: _____<br>Phone: _____<br>Email: _____ |                       |                                      |                   |                       |  |                              |

- ① As appropriate, Bidder shall identify Vendor/Supplier as one of the following and shall include a valid proof of certification (except for OBE, SLBE and ELBE):
- |   |        |  |         |
|---|--------|--|---------|
| Certified Minority Business Enterprise        | MBE    | Certified Woman Business Enterprise            | WBE     |
| Certified Disadvantaged Business Enterprise   | DBE    | Certified Disabled Veteran Business Enterprise | DVBE    |
| Other Business Enterprise                     | OBE    | Certified Emerging Local Business Enterprise   | ELBE    |
| Certified Small Local Business Enterprise     | SLBE   | Small Disadvantaged Business                   | SDB     |
| Woman-Owned Small Business                    | WoSB   | HUBZone Business                               | HUBZone |
| Service-Disabled Veteran Owned Small Business | SDVOSB |  |         |

- ② As appropriate, Bidder shall indicate if Vendor/Supplier is certified by:
- |  |        |  |          |
|--|--------|--|----------|
| City of San Diego                                    | CITY   | State of California Department of Transportation | CALTRANS |
| California Public Utilities Commission               | CPUC   |  |          |
| State of California's Department of General Services | CADoGS | City of Los Angeles                              | LA       |
| State of California                                  | CA     | U.S. Small Business Administration               | SBA      |

**The Bidder will not receive any subcontracting participation percentages if the Bidder fails to submit the required proof of certification.**

## **ELECTRONICALLY SUBMITTED FORMS**

**FAILURE TO FULLY COMPLETE AND SUBMIT ANY OF THE FOLLOWING FORMS WILL DEEM YOUR BID NON-RESPONSIVE.**

**PLANETBIDS WILL NOT ALLOW FOR BID SUBMISSIONS WITHOUT THE ATTACHMENT OF THESE FORMS**

The following forms are to be completed by the bidder and submitted (uploaded) electronically with the bid in PlanetBids.

- A. BID BOND – See Instructions to Bidders, Bidders Guarantee of Good Faith (Bid Security) for further instructions**
- B. CONTRACTOR’S CERTIFICATION OF PENDING ACTIONS**
- C. MANDATORY DISCLOSURE OF BUSINESS INTERESTS FORM**
- D. DEBARMENT AND SUSPENSION CERTIFICATION FOR PRIME CONTRACTOR**
- E. DEBARMENT AND SUSPENSION CERTIFICATION FOR SUBCONTRACTORS, SUPPLIERS AND MANUFACTURERS**

**BID BOND**

**See Instructions to Bidders, Bidder Guarantee of Good Faith  
(Bid Security)**

KNOW ALL MEN BY THESE PRESENTS,

That TRI-GROUP CONSTRUCTION AND DEVELOPMENT, INC. as Principal,  
and NATIONWIDE MUTUAL INSURANCE COMPANY as Surety, are held  
and firmly bound unto The City of San Diego hereinafter called "OWNER," in the sum  
of **10% OF THE TOTAL BID AMOUNT** for the payment of which sum, well and truly to be made, we  
bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally,  
firmly by these presents.

WHEREAS, said Principal has submitted a Bid to said OWNER to perform the WORK required under  
the bidding schedule(s) of the OWNER's Contract Documents entitled  
SOUTH CHOLLAS CREEK AND PARADISE CANYON OPEN SPACE WETLAND  
MITIGATION PROJECT; BID NO. L-23-2188-DBB-2

NOW THEREFORE, if said Principal is awarded a contract by said OWNER and, within the time and in  
the manner required in the "Notice Inviting Bids" enters into a written Agreement on the form of  
agreement bound with said Contract Documents, furnishes the required certificates of insurance, and  
furnishes the required Performance Bond and Payment Bond, then this obligation shall be null and  
void; otherwise it shall remain in full force and effect. In the event suit is brought upon this bond by  
said OWNER and OWNER prevails, said Surety shall pay all costs incurred by said OWNER in such suit,  
including a reasonable attorney's fee to be fixed by the court.

SIGNED AND SEALED, this 24TH day of JULY, 2023

TRI-GROUP CONSTRUCTION  
AND DEVELOPMENT, INC. (SEAL)  
(Principal)

NATIONWIDE MUTUAL  
INSURANCE COMPANY (SEAL)  
(Surety)

By:   
(Signature)

By:   
(Signature)

HANI ASSI, SECRETARY

MARK D. IATAROLA, ATTORNEY-IN-FACT

(SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

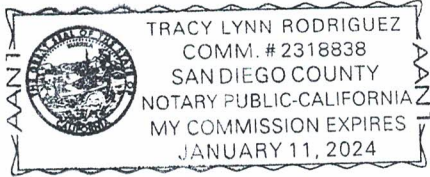
CIVIL CODE § 1189

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

State of California }  
County of SAN DIEGO }

On 7/24/2023 before me, TRACY LYNN RODRIGUEZ, NOTARY PUBLIC  
*Date Here Insert Name and Title of the Officer*  
personally appeared MARK D. IATAROLA  
*Name(s) of Signer(s)*

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



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

WITNESS my hand and official seal.

Signature Tracy H. Rodriguez  
*Signature of Notary Public*

Place Notary Seal and/or Stamp Above

**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: MARK D. IATAROLA

Corporate Officer – Title(s): \_\_\_\_\_

Partner –  Limited  General

Individual  Attorney in Fact

Trustee  Guardian of Conservator

Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

Corporate Officer – Title(s): \_\_\_\_\_

Partner –  Limited  General

Individual  Attorney in Fact

Trustee  Guardian of Conservator

Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

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

State of California }  
County of SAN DIEGO }

On 7/24/2023 before me, TRACY LYNN RODRIGUEZ, NOTARY PUBLIC  
*Date Here Insert Name and Title of the Officer*  
personally appeared HANI ASSI  
*Name(s) of Signer(s)*

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



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.  
WITNESS my hand and official seal.

Signature *Tracy Lynn Rodriguez*  
*Signature of Notary Public*

Place Notary Seal and/or Stamp Above

**OPTIONAL**

*Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_  
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_  
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: HANI ASSI Signer's Name: \_\_\_\_\_  
 Corporate Officer – Title(s): SECRETARY  Corporate Officer – Title(s): \_\_\_\_\_  
 Partner –  Limited  General  Partner –  Limited  General  
 Individual  Attorney in Fact  Individual  Attorney in Fact  
 Trustee  Guardian of Conservator  Trustee  Guardian of Conservator  
 Other: \_\_\_\_\_  Other: \_\_\_\_\_  
Signer is Representing: \_\_\_\_\_ Signer is Representing: \_\_\_\_\_

**Power of Attorney**

KNOW ALL MEN BY THESE PRESENTS THAT:

Nationwide Mutual Insurance Company, an Ohio corporation

hereinafter referred to severally as the "Company" and collectively as "the Companies" does hereby make, constitute and appoint:

HELEN MALONEY; JOHN G MALONEY; MARK D IATAROLA; SANDRA FIGUEROA; TRACY LYNN RODRIGUEZ;

each in their individual capacity, its true and lawful attorney-in-fact, with full power and authority to sign, seal, and execute on its behalf any and all bonds and undertakings, and other obligatory instruments of similar nature, in penalties not exceeding the sum of

**UNLIMITED**

and to bind the Company thereby, as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Company; and all acts of said Attorney pursuant to the authority given are hereby ratified and confirmed.

This power of attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the board of directors of the Company:

"RESOLVED, that the president, or any vice president be, and each hereby is, authorized and empowered to appoint attorneys-in-fact of the Company, and to authorize them to execute and deliver on behalf of the Company any and all bonds, forms, applications, memorandums, undertakings, recognizances, transfers, contracts of indemnity, policies, contracts guaranteeing the fidelity of persons holding positions of public or private trust, and other writings obligatory in nature that the business of the Company may require; and to modify or revoke, with or without cause, any such appointment or authority; provided, however, that the authority granted hereby shall in no way limit the authority of other duly authorized agents to sign and countersign any of said documents on behalf of the Company."

"RESOLVED FURTHER, that such attorneys-in-fact shall have full power and authority to execute and deliver any and all such documents and to bind the Company subject to the terms and limitations of the power of attorney issued to them, and to affix the seal of the Company thereto; provided, however, that said seal shall not be necessary for the validity of any such documents."

This power of attorney is signed and sealed under and by the following bylaws duly adopted by the board of directors of the Company.

Execution of Instruments. Any vice president, any assistant secretary or any assistant treasurer shall have the power and authority to sign or attest all approved documents, instruments, contracts, or other papers in connection with the operation of the business of the company in addition to the chairman of the board, the chief executive officer, president, treasurer or secretary; provided, however, the signature of any of them may be printed, engraved, or stamped on any approved document, contract, instrument, or other papers of the Company.

IN WITNESS WHEREOF, the Company has caused this instrument to be sealed and duly attested by the signature of its officer the 20th day of August, 2021.

Antonio C. Albanese, **Vice President** of Nationwide Mutual Insurance Company

**ACKNOWLEDGMENT**

STATE OF NEW YORK COUNTY OF NEW YORK: ss

On this 20th day of August, 2021, before me came the above-named officer for the Company aforesaid, to me personally known to be the officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposes and says, that he is the officer of the Company aforesaid, that the seal affixed hereto is the corporate seal of said Company, and the said corporate seal and his signature were duly affixed and subscribed to said instrument by the authority and direction of said Company.



Stephanie Rubino McArthur  
Notary Public, State of New York  
No. 02MC6270117  
Qualified in New York County  
Commission Expires October 19, 2024

Notary Public  
My Commission Expires  
October 19, 2024

**CERTIFICATE**

I, Laura B. Guy, Assistant Secretary of the Company, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney issued by the Company; that the resolution included therein is a true and correct transcript from the minutes of the meetings of the boards of directors and the same has not been revoked or amended in any manner; that said Antonio C. Albanese was on the date of the execution of the foregoing power of attorney the duly elected officer of the Company, and the corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority of said board of directors; and the foregoing power of attorney is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto subscribed my name as Assistant Secretary, and affixed the corporate seal of said Company this 24TH day of JULY 2023.

Assistant Secretary











**DEBARMENT AND SUSPENSION CERTIFICATION  
PRIME CONTRACTOR  
FAILURE TO COMPLETE AND SUBMIT AT TIME OF BID SHALL RENDER BID NON-RESPONSIVE**

**EFFECT OF DEBARMENT OR SUSPENSION**

To promote integrity in the City's contracting processes and to protect the public interest, the City shall only enter into contracts with responsible- bidders and contractors. In accordance with San Diego Municipal Code §22.0814 (a): *Bidders and contractors* who have been *debarred* or *suspended* are excluded from submitting bids, submitting responses to requests for proposal or qualifications, receiving *contract* awards, executing *contracts*, participating as a *subcontractor*, employee, agent or representative of another *person* contracting with the City.

As part of its bid or proposal (Non-Price Proposal in the case of Design-Build contracts), the Bidder shall provide to the City a list of Names of the Principal Individual owner(s).

The names of all persons interested in the foregoing proposal as Principals are as follows:

| NAME          | TITLE                    |
|---------------|--------------------------|
| G HASSAN ASSI | PRESIDENT                |
| HANI ASSI     | SECRETARY OF CORPORATION |

**IMPORTANT NOTICE:** If Bidder or other interested person is a corporation, state secretary, treasurer, and manager thereof; if a co-partnership, state true name of firm, also names of all individual co-partners composing firm; if Bidder or other interested person is an individual, state first and last names in full.

The Bidder, under penalty of perjury, certifies that, except as noted below, he/she or any person associated therewith in the capacity of owner, partner, director, officer, manager:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal, State or local agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal, State or local agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

**TRI-GROUP  
CONSTRUCTION AND  
DEVELOPMENT, INC.**

Contractor Name: \_\_\_\_\_

Certified By HANI ASSI Title SECRETARY OF CORP

Name  
\_\_\_\_\_  
Signature

Date 7/24/2023

**NOTE:** Providing false information may result in criminal prosecution or administrative sanctions.

**DEBARMENT AND SUSPENSION CERTIFICATION**  
**SUBCONTRACTORS, SUPPLIERS AND MANUFACTURERS**  
**\*TO BE COMPLETED BY BIDDER\***  
**FAILURE TO COMPLETE AND SUBMIT AT TIME OF BID SHALL RENDER BID NON-RESPONSIVE**

Names of the Principal individual owner(s)

As part of its bid or proposal (Non-Price Proposal in the case of Design-Build contracts), the Bidder shall provide to the City a list of Names of the Principal Individual owner(s) for their subcontractor/supplier/manufacturers.

Please indicate if principal owner is serving in the capacity of **subcontractor**, **supplier**, and/or **manufacturer**:

SUBCONTRACTOR                       SUPPLIER                       MANUFACTURER

| NAME                        | TITLE             |
|-----------------------------|-------------------|
| LEOPOLD BIOLOGICAL SERVICES |                   |
| CHRISTINE HARVSY            | PRESIDENT / OWNER |

SUBCONTRACTOR                       SUPPLIER                       MANUFACTURER

| NAME           | TITLE     |
|----------------|-----------|
| PANGIS         |           |
| ALICE BREWSTER | PRESIDENT |

SUBCONTRACTOR                       SUPPLIER                       MANUFACTURER

| NAME               | TITLE     |
|--------------------|-----------|
| AMERICAN HYDROSEED |           |
| JACOB WHALL        | PRESIDENT |

SUBCONTRACTOR                       SUPPLIER                       MANUFACTURER

| NAME | TITLE |
|------|-------|
|      |       |
|      |       |
|      |       |

Contractor Name: TRI-GROUP CONSTRUCTION AND DEVELOPMENT, INC.

Certified By HANI ASSI Title SECRETARY OF CORP.

Name

  
Signature

Date 7.25.23

**\*USE ADDITIONAL FORMS AS NECESSARY\*\***



## Bid Results

### Bidder Details

**Vendor Name** Tri-Group Construction & Development, Inc.  
**Address** 9580 Black Mountain Rd, Ste L  
 San Diego, California 92126  
 United States  
**Respondee** Hani Assi  
**Respondee Title** Secretary of Corporation  
**Phone** 858-689-0058  
**Email** estimating@trigroupinc.com  
**Vendor Type** PQUAL, CADIR, SLBE  
**License #** 792159  
**CADIR** 1000004777

### Bid Detail

**Bid Format** Electronic  
**Submitted** 07/25/2023 10:58 AM (PDT)  
**Delivery Method**  
**Bid Responsive**  
**Bid Status** Submitted  
**Confirmation #** 339354

### Respondee Comment

### Buyer Comment

### Attachments

| File Title   | File Name  | File Type   |
|--|--|---|
| South Chollas Bid Pending Actions_001871.pdf         | South Chollas Bid Pending Actions_001871.pdf         | CONTRACTOR'S CERTIFICATION OF PENDING ACTIONS                 |
| South Chollas Bid Business interest_001873.pdf       | South Chollas Bid Business interest_001873.pdf       | MANDATORY DISCLOSURE OF BUSINESS INTERESTS FORM               |
| South Chollas Bid Prime Debarment_001874.pdf         | South Chollas Bid Prime Debarment_001874.pdf         | PRIME - DEBARMENT AND SUSPENSION CERTIFICATION                |
| South Chollas Bid Subs Debarment 07 25 23_001881.pdf | South Chollas Bid Subs Debarment 07 25 23_001881.pdf | SUBS, SUPPL., MANUF. - DEBARMENT AND SUSPENSION CERTIFICATION |
| south chollas Bid Bid bond_001879.pdf                | south chollas Bid Bid bond_001879.pdf                | Bid Bond  |

## Subcontractors

Showing 3 Subcontractors

| Name & Address   | Desc  | License Num | CADIR      | Amount      | Type  |
|--|---|-------------|------------|-------------|---|
| <b>American Hydroseed</b><br>41856 Ivy St<br>Ste 109<br>Murrieta, California 92562                     | Constructor,<br>Hydroseeding  | 888164      | 1000397799 | \$15,163.00 | CADIR, FEM, CAU   |
| <b>Leopold Biological Services</b><br>11160 Portobelo Drive<br>San Diego, California 92124             | Designer,<br>Biological<br>Monitoring and<br>Reporting              | 000000      | 0000000000 | \$46,375.50 | DBE, WBE, SDB, FEM,<br>WOSB, CAU, Local                 |
| <b>PanGIS, Inc. (Archaeology/History/C</b><br>6353 El Camino Real Ste. B<br>Carlsbad, California 92009 | Designer,<br>Archaeological<br>and Native<br>American<br>Monitoring | 000000      | 1000052606 | \$24,462.00 | DBE, ELBE, WBE, SDB,<br>CADIR, FEM, WOSB, CAU,<br>Local |

## Line Items

Discount Terms No Discount

| Item #  | Item Code | Type | Item Description   | UOM | QTY  | Unit Price  | Line Total          | Response | Comment |
|---|-----------|------|--|-----|------|-------------|---------------------|----------|---------|
| <b>Main Bid (South Chollas Creek Wetland Rehabilitation Mitigation Site)</b>                  |           |      |  |     |      |             | <b>\$279,834.00</b> |          |         |
| 1   | 524126    |      | Bonds (Payment and Performance)  | LS  | 1    | \$4,000.00  | \$4,000.00          | Yes      |         |
| 2   | 541690    |      | Archaeological and Native American Monitoring Program  | LS  | 1    | \$25,000.00 | \$25,000.00         | Yes      |         |
| 3   | 541690    |      | Archaeological and Native American Mitigation and Curation (EOC Type I)                      | AL  | 1    | \$5,000.00  | \$5,000.00          | Yes      |         |
| 4   | 561730    |      | Mobilization   | LS  | 1    | \$10,000.00 | \$10,000.00         | Yes      |         |
| 5   |           |      | Field Orders (EOC Type II)   | AL  | 1    | \$5,000.00  | \$5,000.00          | Yes      |         |
| 6   | 541330    |      | Biological Monitoring and Reporting  | LS  | 1    | \$25,000.00 | \$25,000.00         | Yes      |         |
| 7   | 561730    |      | Site Survey/Staking  | LF  | 2500 | \$2.00      | \$5,000.00          | Yes      |         |
| 8   | 561730    |      | Weed and Invasive Plant Eradication: Cut to Grade Vegetation Invasive Removal                | AC  | 0.9  | \$40,000.00 | \$36,000.00         | Yes      |         |
| 9   | 561730    |      | Weed and Invasive Plant Eradication - Palm Removal   | EA  | 14   | \$1,400.00  | \$19,600.00         | Yes      |         |
| 10  | 561730    |      | Weed and Invasive Plant Eradication - Invasive Shothole Borers (ISHB) Treatment/Staging Area | LS  | 1    | \$42,000.00 | \$42,000.00         | Yes      |         |
| 11  | 561730    |      | 1-Gallon Container Plants  | EA  | 591  | \$14.00     | \$8,274.00          | Yes      |         |
| 12  | 561730    |      | 5-Gallon Container Plants  | EA  | 8    | \$100.00    | \$800.00            | Yes      |         |
| 13  | 561730    |      | Hydro Seeding  | AC  | 0.9  | \$11,000.00 | \$9,900.00          | Yes      |         |
| 14  | 561730    |      | Maintenance: 120 Calendar Day Plant Establishment Period                                     | MO  | 4    | \$6,115.00  | \$24,460.00         | Yes      |         |
| 15  | 561730    |      | As-Built/Completion Report   | LS  | 1    | \$1,000.00  | \$1,000.00          | Yes      |         |
| 16  | 541330    |      | WPCP Development   | LS  | 1    | \$18,800.00 | \$18,800.00         | Yes      |         |
| 17  | 561730    |      | WPCP Implementation  | LS  | 1    | \$40,000.00 | \$40,000.00         | Yes      |         |
| <b>Main Bid (Paradise Canyon Open Space Irrigated Wetland Rehabilitation Mitigation Site)</b> |           |      |  |     |      |             | <b>\$718,144.00</b> |          |         |
| 18  | 524126    |      | Bonds (Payment and Performance)  | LS  | 1    | \$8,000.00  | \$8,000.00          | Yes      |         |
| 19  | 561730    |      | Mobilization   | LS  | 1    | \$20,000.00 | \$20,000.00         | Yes      |         |
| 20  |           |      | Field Orders (EOC Type II)   | AL  | 1    | \$5,000.00  | \$5,000.00          | Yes      |         |
| 21  | 541330    |      | Biological Monitoring and Reporting  | LS  | 1    | \$25,000.00 | \$25,000.00         | Yes      |         |
| 22  | 561730    |      | Site Survey/Staking  | LF  | 6600 | \$2.00      | \$13,200.00         | Yes      |         |
| 23  | 561730    |      | Weed and Invasive Plant Eradication: Cut to Grade Vegetation Invasive Removal                | AC  | 2    | \$40,000.00 | \$80,000.00         | Yes      |         |
| 24  | 561730    |      | Weed and Invasive Plant Eradication - Palm Removal   | EA  | 180  | \$1,400.00  | \$252,000.00        | Yes      |         |
| 25  | 561730    |      | Weed and Invasive Plant Eradication - Invasive Shothole Borers (ISHB) Treatment/Staging Area | LS  | 1    | \$59,000.00 | \$59,000.00         | Yes      |         |
| 26  | 561730    |      | 1-Gallon Container Plants  | EA  | 1366 | \$14.00     | \$19,124.00         | Yes      |         |
| 27  | 561730    |      | 5-Gallon Container Plants  | EA  | 16   | \$100.00    | \$1,600.00          | Yes      |         |
| 28  | 561730    |      | Temporary Spray Irrigation System  | LS  | 1    | \$97,000.00 | \$97,000.00         | Yes      |         |
| 29  | 561730    |      | Hydro Seeding  | AC  | 2.02 | \$11,000.00 | \$22,220.00         | Yes      |         |
| 30  | 561730    |      | Maintenance: 120 Calendar Day Plant Establishment Period                                     | MO  | 4    | \$12,000.00 | \$48,000.00         | Yes      |         |
| 31  | 561730    |      | As-Built/Completion Report   | LS  | 1    | \$1,000.00  | \$1,000.00          | Yes      |         |
| 32  | 541330    |      | WPCP Development   | LS  | 1    | \$19,000.00 | \$19,000.00         | Yes      |         |
| 33  | 561730    |      | WPCP Implementation  | LS  | 1    | \$48,000.00 | \$48,000.00         | Yes      |         |

## Line Item Subtotals

| Section Title  | Line Total          |
|--|---------------------|
| Main Bid (South Chollas Creek Wetland Rehabilitation Mitigation Site)                  | \$279,834.00        |
| Main Bid (Paradise Canyon Open Space Irrigated Wetland Rehabilitation Mitigation Site) | \$718,144.00        |
| <b>Grand Total</b>   | <b>\$997,978.00</b> |