

RESOLUTION NUMBER R- _____

ADOPTED ON _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING ENVIRONMENTAL IMPACT REPORT NO. 264823, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, FINDINGS, AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE GLEN AT SCRIPPS RANCH PROJECT – PROJECT NO. 264823.

WHEREAS, on December 6, 2011, Alliant International University, a California not-for-profit corporation, Owner, and The Glen at Scripps Ranch CCRC, LLC, a Delaware Limited Liability Company, Applicant, submitted an application to Development Services Department for a General Plan and Community Plan Amendment, Vesting Tentative Map, Planned Development Permit with four deviations, Site Development Permit, Conditional Use Permit, Neighborhood Development Permit and MHPA Boundary Line Adjustment for The Glen at Scripps Ranch (Project); and

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

WHEREAS, the matter was heard by the City Council of the City of San Diego on December 15, 2015; and

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

WHEREAS, the City Council of the City of San Diego considered the issues discussed in Environmental Impact Report No. 264823 (Report) prepared for this Project; NOW, THEREFORE,

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

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

BE IT FURTHER RESOLVED, that pursuant to CEQA Guidelines Section 21081 and CEQA Guidelines Sections 15091 and 15093, the City Council of the City of San Diego hereby adopts the Findings and a Statement of Overriding Considerations with respect to the Project, which is attached hereto as Exhibit B.

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

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

APPROVED: JAN I. GOLDSMITH, City Attorney

By: _____
Shannon M. Thomas
Deputy City Attorney

SMT:als
11/25/2015
Or. Dept: DSD
Doc. No. 1165713

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

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

General Plan and Scripps Miramar Ranch Community Plan Amendment No. 990531,
Vesting Tentative Map No. 1451662, Planned Development Permit No. 1451656,
Site Development Permit No. 932619, Conditional Use Permit No. 932618,
Neighborhood Development Permit No. 1451657 and
MHPA Boundary Line Adjustment

**THE GLEN AT SCRIPPS RANCH
PROJECT NO. 264823**

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 Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report No. 264823 shall be made conditions of Vesting Tentative Map No. 1451662, Planned Development Permit No. 1451656, Site Development Permit No. 932619, Conditional Use Permit No. 932618, Neighborhood Development Permit No. 1451657 and MHPA Boundary Line Adjustment as may be further described below.

**A. GENERAL REQUIREMENTS – PART I
Plan Check Phase (prior to permit issuance)**

1. Prior to the issuance of a Notice To Proceed for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the DSD Director’s Environmental Designee shall review and approve all CDs (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.
2. In addition, the Environmental Designee shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, **“ENVIRONMENTAL/MITIGATION REQUIREMENTS.”**
3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website: <http://www.sandiego.gov/development-services/industry/standtemp.shtml>
4. The **TITLE INDEX SHEET** must also show on which pages the “Environmental/Mitigation Requirements” notes are provided.

5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

B. GENERAL REQUIREMENTS – PART II

Post Plan Check (After permit issuance/Prior to start of construction)

1. **PRE CONSTRUCTION MEETING IS REQUIRED TEN (10) WORKING DAYS PRIOR TO BEGINNING ANY WORK ON THIS PROJECT:** The PERMIT HOLDER/OWNER is responsible to arrange and perform this meeting by contacting the CITY RESIDENT ENGINEER (RE) of the Field Engineering Division and City staff from MITIGATION MONITORING COORDINATION (MMC). Attendees must also include the Permit holder's Representative(s), Job Site Superintendent and the following consultants: *Qualified Biologist, Archeologist, N.A Monitor, Paleontologist.*

Note: Failure of all responsible Permit Holder's representatives and consultants to attend shall require an additional meeting with all parties present.

CONTACT INFORMATION:

- a) The PRIMARY POINT OF CONTACT is the **RE** at the **Field Engineering Division – 858-627-3200**
 - b) For Clarification of ENVIRONMENTAL REQUIREMENTS, it is also required to call **RE and MMC at 858-627-3360**
2. **MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) #264823 and/or Environmental Document #264823, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e., to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc.

Note: Permit Holder's Representatives must alert RE and MMC if there are any discrepancies in the plans or notes, or any changes due to field conditions. All conflicts must be approved by RE and MMC BEFORE the work is performed.

3. **OTHER AGENCY REQUIREMENTS:** Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution, or other documentation issued by the responsible agency.
- **Section 404 permit authorization from ACOE**
 - **1600 Streambed Alteration Agreement from CDFW**
 - **401 State Water Quality Certification from RWQCB**
4. **MONITORING EXHIBITS:** All consultants are required to submit, to RE and MMC, a monitoring exhibit on a 11x17-inch reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline's work, and notes indicating when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.
- Note: Surety and Cost Recovery – When deemed necessary by the Development Services Director or City Manager, additional surety instruments or bonds from the private Permit Holder may be required to ensure the long-term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.**
5. **OTHER SUBMITTALS AND INSPECTIONS:** The Permit Holder/Owner's representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

DOCUMENT SUBMITTAL/INSPECTION CHECKLIST		
Issue Area	Document Submittal	Associated Inspection/Approvals/Notes
General	Consultant Qualification Letters	Prior to Preconstruction Meeting
General	Consultant Construction Monitoring Exhibits	Prior to or at Preconstruction Meeting
Land Use	Land Use Adjacency Issues CVSRs	Land Use Adjacency Issue Site Observations
Biology	Biologist Limit of Work Verification	Limit of Work Inspection
Biology	Biology Reports	Biology/Habitat Restoration Inspection
Landscape	Tree Protection Arborist	Tree Protect Fence Inspection

	Verification	
Visual Quality	Contour Grading Verification Letter	Contour Grading/Staking Inspection
Visual Quality	Retaining Wall Verification Letter	Retaining Wall Inspection
Paleontology	Paleontology Reports	Paleontology Site Observation
Archaeology	Archaeology Reports	Archaeology/Historic Site Observation
Waste Management	Waste Management Reports	Waste Management Inspections
Bond Release	Request for Bond Release Letter	Final MMRP Inspections Prior to Bond Release Letter

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

LAND USE

LAND-1:

a. Protection during Construction

I. Prior to Construction

- A. Biologist Verification – The owner/permittee shall provide a letter to the City’s Mitigation Monitoring Coordination (MMC) section stating that a Project Biologist (Qualified Biologist) as defined in the City of San Diego’s Biological Guidelines (2012), has been retained to implement the project’s biological monitoring program. The letter shall include the names and contact information of all persons involved in the biological monitoring of the project.
- B. Preconstruction Meeting – The Qualified Biologist shall attend the preconstruction meeting, discuss the project’s biological monitoring program, and arrange to perform any follow up mitigation measures and reporting including site-specific monitoring, restoration or revegetation, and additional fauna/flora surveys/salvage.
- C. Biological Documents – The Qualified Biologist shall submit all required documentation to MMC verifying that any special mitigation reports including but not limited to, maps, plans, surveys, survey timelines, or buffers are completed or scheduled per City Biology Guidelines, Multiple Species Conservation Program (MSCP), Environmentally Sensitive Lands Ordinance (ESL), project permit conditions; California Environmental Quality Act (CEQA); endangered species acts (ESAs); and/or other local, state or federal requirements.
- D. BCME – The Qualified Biologist shall present a Biological Construction Mitigation/Monitoring Exhibit (BCME) which includes the biological documents in C above. In addition, include: restoration/revegetation plans, plant salvage/relocation requirements (e.g., coastal cactus wren plant salvage, burrowing owl exclusions, etc.), avian or other wildlife

surveys/survey schedules (including general avian nesting and USFWS protocol), timing of surveys, wetland buffers, avian construction avoidance areas/noise buffers/ barriers, other impact avoidance areas, and any subsequent requirements determined by the Qualified Biologist and the City ADD/MMC. The BCME shall include a site plan, written and graphic depiction of the project's biological mitigation/monitoring program, and a schedule. The BCME shall be approved by MMC and referenced in the construction documents.

- E. Avian Protection Requirements – To avoid any direct impacts to raptors and/or any native/migratory birds, removal of habitat that supports active nests in the proposed area of disturbance should occur outside of the breeding season for these species (February 1 to September 15). 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 on the proposed area of disturbance. The pre-construction survey shall be conducted within 10 calendar days prior to the start of construction activities (including removal of vegetation). The applicant shall submit the results of the pre-construction survey to City DSD for review and approval prior to initiating any construction activities. If nesting birds are detected, a letter report or mitigation plan in conformance with the City's Biology Guidelines and applicable State and Federal Law (i.e. appropriate follow up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) shall be prepared and include proposed measures to be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. The report or mitigation plan shall be submitted to the City for review and approval and implemented to the satisfaction of the City. The City's MMC Section or RE, and Biologist shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction.
- F. Resource Delineation – Prior to construction activities, the Qualified Biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance adjacent to sensitive biological habitats and verify compliance with any other project conditions as shown on the BCME. This phase shall include flagging plant specimens and delimiting buffers to protect sensitive biological resources (e.g., habitats/flora & fauna species, including nesting birds) during construction. Appropriate steps/care should be taken to minimize attraction of nest predators to the site.
- G. Education – Prior to commencement of construction activities, the Qualified Biologist shall meet with the owner/permittee or designee and the construction crew and conduct an on-site educational session regarding the need to avoid impacts outside of the approved construction area and to protect sensitive flora and fauna (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, etc.).

II. During Construction

- A. Monitoring – All construction (including access/staging areas) shall be restricted to areas previously identified, proposed for development/staging, or previously disturbed as shown on “Exhibit A” and/or the BCME. The Qualified Biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas, or cause other similar damage, and that the work plan has been amended to accommodate any sensitive species located during the pre-construction surveys. In addition, the Qualified Biologist shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR shall be e-mailed to MMC on the 1st day of monitoring, the 1st week of each month, the last day of monitoring, and immediately in the case of any undocumented condition or discovery.
- B. Subsequent Resource Identification – The Qualified Biologist shall note/act to prevent any new disturbances to habitat, flora, and/or fauna onsite (e.g., flag plant specimens for avoidance during access, etc.). If active nests or other previously unknown sensitive resources are detected, all project activities that directly impact the resource shall be delayed until species specific local, state or federal regulations have been determined and applied by the Qualified Biologist.

III. Post Construction Measures

- A. In the event that impacts exceed previously allowed amounts, additional impacts shall be mitigated in accordance with City Biology Guidelines, ESL and MSCP, State CEQA, and other applicable local, state and federal law. The Qualified Biologist shall submit a final BCME/report to the satisfaction of the City ADD/MMC within 30 days of construction completion.

b. MHPA Adjacency

LAND-2: Prior to issuance of any construction permit or notice to proceed, DSD/ LDR, and/or MSCP staff shall verify the Applicant has accurately represented the project’s design in or on the Construction Documents (CD’s/CD’s consist of Construction Plan Sets for Private Projects and Contract Specifications for Public Projects) are in conformance with the associated discretionary permit conditions and Exhibit “A”, and also the City’s Multi-Species Conservation Program (MSCP) Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines. The applicant shall provide an implementing plan and include references on/in CD’s of the following:

- A. Grading/Land Development/MHPA Boundaries – MHPA boundaries on-site and adjacent properties shall be delineated on the CDs. DSD Planning and/or MSCP staff shall ensure that all grading is included within the development footprint, specifically manufactured slopes, disturbance, and development within or

adjacent to the MHPA. For projects within or adjacent to the MHPA, all manufactured slopes associated with site development shall be included within the development footprint.

- B. Drainage – All new and proposed parking lots and developed areas in and adjacent to the MHPA shall be designed so they do not drain directly into the MHPA. All developed and paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials prior to release by incorporating the use of filtration devices, planted swales and/or planted detention/desiltation basins, or other approved permanent methods that are designed to minimize negative impacts, such as excessive water and toxins into the ecosystems of the MHPA.
- C. Toxics/Project Staging Areas/Equipment Storage – Projects that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, and other substances that are potentially toxic or impactful to native habitats/flora/fauna (including water) shall incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. No trash, oil, parking, or other construction/development-related material/activities shall be allowed outside any approved construction limits. Where applicable, this requirement shall be incorporated into leases on publicly-owned property when applications for renewal occur. Provide a note in/on the CD's that states: "All construction related activity that may have potential for leakage or intrusion shall be monitored by the Qualified Biologist/Owners Representative or Resident Engineer to ensure there is no impact to the MHPA."
- D. Lighting – Lighting within or adjacent to the MHPA shall be directed away/shielded from the MHPA and be subject to City Outdoor Lighting Regulations per LDC Section 142.0740.
- E. Barriers – New development within or adjacent to the MHPA shall be required to provide barriers (e.g., non-invasive vegetation; rocks/boulders; 6-foot high, vinyl-coated chain link or equivalent fences/walls; and/or signage) along the MHPA boundaries to direct public access to appropriate locations, reduce domestic animal predation, protect wildlife in the preserve, and provide adequate noise reduction where needed.
- F. Invasives – No invasive non-native plant species shall be introduced into areas within or adjacent to the MHPA.
- G. Brush Management – New development adjacent to the MHPA shall be set back from the MHPA to provide required Brush Management Zone 1 area on the building pad outside of the MHPA. Zone 2 may be located within the MHPA provided the Zone 2 management will be the responsibility of a private entity except where narrow wildlife corridors require it to be located outside of the MHPA. Brush management zones will not be greater in size than currently required by the City's regulations, the amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done and vegetation clearing shall be prohibited within native coastal sage scrub and chaparral habitats from March 1-August 15 except where the City ADD/MMC has documented the thinning would be consist with the City's MSCP Subarea

Plan. Existing and approved projects are subject to current requirements of Municipal Code Section 142.0412.

- H. Noise – Due to the site's location adjacent to or within the MHPA where the Qualified Biologist has identified potential nesting habitat for listed avian species, construction noise that exceeds the maximum levels allowed shall be avoided during the breeding seasons for the following: California Gnatcatcher (March 1- August 15). If construction is proposed during the breeding season for the species, U.S. Fish and Wildlife Service protocol surveys shall be required in order to determine species presence/absence. If protocol surveys are not conducted in suitable habitat during the breeding season for the aforementioned listed species, presence shall be assumed with implementation of noise attenuation and biological monitoring.

When applicable (i.e., habitat is occupied or if presence of the covered species is assumed), adequate noise reduction measures shall be incorporated as follows:

COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

Prior to the issuance of any grading permit the City Manager (or appointed designee) shall verify that the MHPA boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

No clearing, grubbing, grading, or other construction activities shall occur between March 1 and August 15, the breeding season of the coastal California gnatcatcher, until the following requirements have been met to the satisfaction of the City Manager:

- a. 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 the coastal California gnatcatcher shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife Service within the breeding season prior to the commencement of any construction. If coastal California gnatcatchers are present, then the following conditions must be met:
 - i. Between March 1 and August 15, 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
 - ii. Between March 1 and August 15, 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 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 City Manager at least two 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

- iii. At least two 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 will 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 City Manager, 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.

- b. If coastal California gnatcatchers are not detected during the protocol survey, the Qualified Biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary between March 1 and August 15 as follows:
 - i. If this evidence indicates the potential is high for coastal California gnatcatcher to be present based on historical records or site conditions, then condition a.iii shall be adhered to as specified above.
 - ii. If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.

BIOLOGY

BIO-1a: To avoid any direct impacts to Cooper's hawk and other sensitive raptors and/or any native/migratory birds, removal of habitat that supports active nests in the proposed area of disturbance should occur outside of the breeding season for these species (February 1 to September 15). 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 on the proposed area of disturbance. The pre-construction (precon) survey shall be conducted within 10 calendar days prior to the start of construction activities (including removal of vegetation). The applicant shall submit the results of the precon survey to City Development Services Department (DSD) for review and approval prior to initiating any construction activities.

If nesting birds are detected, a letter report or mitigation plan in conformance with the City's Biology Guidelines and applicable state and federal law (i.e., appropriate follow up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) shall be prepared and include proposed measures to be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. If present, a 300-foot impact avoidance area shall be established for Cooper's hawk and other species-specific perimeters shall be established around any active nests consistent with any requirements in the City's MSCP Subarea Plan and 2012 Biology Guidelines and Wildlife Agency requirements). Should an active nest be detected, appropriate species-specific construction setbacks shall be implemented until the fledglings are independent of the nest. The report or mitigation plan shall be submitted to the City DSD for review and approval and implemented to the satisfaction of the City. The City's Mitigation Monitoring Coordinator or Resident Engineer, and Biologist shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction. If nesting birds are not detected during the precon survey, no further mitigation is required.

Additionally, the City of San Diego requires general monitoring as part of the avian protection requirements during construction. This requirement states:

The Qualified Biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas, or cause other similar damage, and that the work plan has been amended to accommodate any sensitive species located during the pre-construction surveys.

BIO-1b: In order to be consistent with the MSCP Subarea Plan Conditions of Coverage, the following site-specific mitigation measures are required of The Glen at Scripps Ranch project:

Belding's orange-throated whiptail Mitigation: To address edge effects, all of the development footprint shall be located outside of the MHPA and a fence/barrier shall be installed along the project boundary to prohibit entry into the MHPA.

Coast horned lizard Mitigation: The project shall include specific measures to maintain native ant species, discourage the Argentine ant (*Linepithema humile*), and protect against detrimental edge effects to this species including inspection by the project biologist (preferably off-site prior to shipment to the site) of native container stock scheduled to be placed on-site MHPA adjacent

slopes. The biologist shall inspect all specimens and reject any that show non-native ants or evidence of non-native ants. Additionally, all restoration/revegetation areas within BMZ abutting the MHPA and ESL shall avoid the use of chemicals which would impact or kill native ant species (i.e., herbicides/pesticides).

See also mitigation measures LAND-1 and LAND-2.

Sensitive Uplands

BIO-2: Prior to the issuance of a Notice to Proceed for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity, project upland impacts shall be mitigated in accordance with the San Diego LDC Biology Guidelines, as specified in Table 4.3-4 of the EIR based on mitigation occurring within the MHPA.

With approval of the MHPA boundary line adjustment, mitigation for some of the impacts to sensitive vegetation communities would be achieved through the on-site preservation of lands (2.31 acres of disturbed Diegan coastal sage scrub and 0.76 acre of disturbed southern mixed chaparral) outside the development footprint, located on the north end of parcel, and dedication of this acreage to the MHPA in a covenant of easement. Mitigation land shall be conveyed to the City, as described in BIO-3.

Once the 2.31 acres of disturbed Diegan coastal sage scrub and 0.76 acre of disturbed southern mixed chaparral are applied towards mitigation, the remaining upland mitigation required consists of 10.14 acres of southern mixed chaparral and 1.61 acres of non-native grassland. The remaining 10.14 acres of chaparral mitigation will be satisfied either via a land acquisition and dedication to the MHPA of lands on Alliant International University, south of the project; and/or through purchasing off-site lands within the MHPA. The 1.61 acres of grassland mitigation will be satisfied through payment to the City's Habitat Acquisition Fund and/or through purchasing off-site lands within the MHPA. Mitigation for the 0.17 acre of impacts to non-wetland waters would occur on-site and is discussed in BIO-4.

On-Site Preservation

BIO-3: After all restoration efforts have been signed off and accepted by the City, the on-site MHPA shall be conveyed to the San Diego's MCSP preserve through one of the following:

- a) Dedication. The Owner/Permittee/Applicant shall convey the mitigation area in fee title to San Diego, or other conservation entities found acceptable by San Diego, USFWS, or CDFG through an irrevocable offer of dedication via the Final Maps. Conveyance of any land in fee shall require approval from the Park and Recreation Department Open Space Division Deputy Director and shall exclude detention basins or other storm water control facilities and manufactured slopes (with the exception of those that might be associated with the potential landslide area; San Diego Biology Guidelines 2012).
- b) Covenant of Easement. To the extent consistent with MSCP Implementing Agreement, the Owner/Permittee/Applicant must agree to a covenant of easement for the management of the mitigation area in perpetuity, recorded against the title of the property with the USFWS and the CDFG named as third party

beneficiaries. Identification of permissible passive activities and any other conditions of the permit must be incorporated into the covenant. (San Diego Biology Guidelines 2002)

- c) Any other method of transfer permitted by the San Diego's MSCP Subarea Plan or Implementing Agreement.
To the extent consistent with MSCP Implementing Agreement and to facilitate MHPA conveyance, any non-fee areas located in the MHPA shall be lotted separately, with a covenant of easement, and be maintained in perpetuity by the Owner/Permittee/ Applicant, unless otherwise agreed to by San Diego. All other on-site areas can be conveyed through any of the above methods.
- d) Funding. A secured funding source shall be identified to pay for land management in perpetuity in accordance with the City's Biology Guidelines (2012).

Wetlands

BIO-4: Prior to the issuance of a Notice to Proceed for a subdivision, or any construction permits, such as Demolition, Grading, or Building, or beginning any construction related activity on-site, notification to the ACOE Section 404 Nationwide Permit Program, a Streambed Alteration Agreement from the CDFW, and a 401 Water Quality Certification from the RWQCB would be required. To reduce impacts to jurisdictional resources to less than significant, a minimum mitigation of 0.34 acre for impacts to ACOE and CDFW/RWQCB jurisdictional non-wetland waters/streambeds would be required (see Table 4.3-6 of the EIR).

BIO-5: Prior to the issuance of a Notice to Proceed for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the applicant shall obtain all appropriate ACOE permit, CDFW streambed alteration agreement, and RWQCB water quality certification. Mitigation shall proceed according to permitting requirements of the applicable Resource Agencies and shall consist of a 2:1 establishment/creation of riparian habitat to ensure no net loss of non-wetland waters; therefore, a minimum mitigation of 0.34 acre shall be required (see Table 4.3-6 of the EIR). This on-site establishment/creation of ephemeral drainage will occur by widening the existing channel within the northern section of the survey area to achieve a 2:1 ratio (i.e., 0.34 acre). The banks of the new channel would be stabilized with riparian scrub plant species that are tolerant of the drier floodplain conditions.

BIO-6: Prior to the issuance of a Notice to Proceed for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, a qualified biologist shall submit a final Wetland Mitigation Plan to the USACE, RWQCB, San Diego (Park and Recreation, EAS, and MSCP), and CDFG for review and approval. A conceptual mitigation plan has been provided which illustrates the chosen location of establishment/creation area, methods involved to implement the mitigation effort, and a maintenance and monitoring program which is required to ensure the success of the mitigation (RECON 2015b).

HISTORICAL RESOURCES

Due to the potential for buried cultural resources to be encountered below alluvial soils on-site, a qualified archaeological monitor and a Native American monitor shall be present during project-related grading activities in the area shown on Figure 4.5-1.

HIST-1

- I. Prior to Permit Issuance
 - A. Entitlements Plan Check
 1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the ADD Environmental designee 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 ADD
 1. The applicant shall submit a letter of verification to MMC identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (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 the applicant 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, the applicant 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; the Applicant shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. 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, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. 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 existing known soil conditions (native or formation).
3. 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 site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor(s) 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 CM 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 CSVRs shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (Notification of Monitoring Completion), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE or BI, 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 fax or 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) which has been reviewed by the Native American consultant/monitor, and obtain written approval from MMC. Impacts to significant resources must be mitigated 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, 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.
- 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.

IV. Discovery of Human Remains

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

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the 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 provenance of the remains.
2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenance.
3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are not most likely to be of Native American origin.

- C. If Human Remains ARE determined to be Native American
1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, ONLY the Medical Examiner can make this call.
 2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
 3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
 4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
 5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
 - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission; 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, THEN,
 - c. In order 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 on the site;
 - (3) Record a document with the County.
 - 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 buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.
- D. If Human Remains are NOT Native American
1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.

2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/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 fax by 8 AM 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 MMC, or by 8 A.M. 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, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

- A. Preparation and 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 Historical

Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC 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 resulting from 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 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 Historical Resources Guidelines, 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 for revision or, for preparation of the Final Report.
 3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
 4. MMC shall provide written verification to the PI of the approved report.
 5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
- B. Handling of Artifacts
1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
 2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
 3. The cost for curation is the responsibility of the property owner.
- 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. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
 3. 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 5.
- D. Final Monitoring Report(s)
1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
 2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

PALEONTOLOGICAL RESOURCES

PALEO-1

- I. Prior to Permit Issuance
 - A. Entitlements Plan Check
 1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the ADD Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.
 - B. Letters of Qualification have been submitted to ADD
 1. The applicant shall submit a letter of verification to MMC identifying the PI for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
 2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
 3. Prior to the start of work, the applicant shall obtain 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 has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution 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.
 - B. PI Shall Attend Precon Meetings
 - 1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
 - 2. Identify Areas to be Monitored

Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
 - 3. 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 depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

- III. During Construction
- A. Monitor Shall be Present During Grading/Excavation/Trenching
1. The monitor shall be present full time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. 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 PME.
 2. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.
 3. The monitor shall document field activity via the Consultant Site Visit Record (CSV). The CSV's shall be faxed 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 Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, 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 fax or email with photos of the resource in context, if possible.
- C. Determination of Significance
1. The PI shall evaluate the significance of the resource.
 - 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. The determination of significance for fossil discoveries shall be at the discretion of the PI.
 - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.

- c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
- d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

IV. 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 CSV and submit to MMC via fax by 8AM on the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
 - d. The PI shall immediately contact MMC, or by 8AM on 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 work becomes necessary during the course of construction
 - 1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 - 2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

V. Post Construction

- A. Preparation and 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 Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with

appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,

a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.

b. Recording Sites with the San Diego Natural History Museum

The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.

2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Fossil Remains

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

C. Curation of fossil remains: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
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.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

EXHIBIT B

The Glen at Scripps Ranch
(Project No. 264823)

**CANDIDATE'S CEQA FINDINGS OF FACT AND
STATEMENT OF OVERRIDING CONSIDERATIONS**

ENVIRONMENTAL IMPACT REPORT
(State Clearinghouse No. 2013071013)

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I. INTRODUCTION

A. Findings of Fact and Statement of Overriding Considerations

The California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000, et seq.) and the CEQA Guidelines (Guidelines) (14 Cal. Code Regs §§ 15000, et seq.) promulgated thereunder, require that the environmental impacts of a project be examined before a project is approved. In addition, once significant impacts have been identified, CEQA and the Guidelines require that certain findings be made before project approval. It is the exclusive discretion of the decision-maker certifying the Environmental Impact Report (EIR) to determine the adequacy of the proposed candidate findings. It is the role of staff to independently evaluate the proposed candidate findings and to make a recommendation to the decision-maker regarding their legal adequacy. Specifically, regarding findings, Guidelines section 15091 provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are: (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR; (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.

- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

The “changes or alterations” referred to in Section 15091(a)(1) above, that are required in, or incorporated into, the project which mitigate or avoid the significant environmental effects of the project, may include a wide variety of measures or actions as set forth in Guidelines Section 15370, including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

Should significant and unavoidable impacts remain after changes or alterations are applied to the project, a Statement of Overriding Considerations must be prepared. The statement provides the lead agency’s views on the ultimate balancing of the merits of approving a project despite its environmental damage. Regarding a Statement of Overriding Considerations, Guidelines section 15093 provides:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

The following Candidate Findings of Fact and Statement of Overriding Considerations have been submitted by the Applicant as Candidate Findings of Fact and Statement of Overriding

Considerations (Findings) to be made by the decision-making body. The Development Services Department (DSD), Environmental Analysis Section (EAS) does not recommend that the decision-making body either adopt or reject these findings. They are attached to allow readers of this report an opportunity to review the Applicant's position on this matter. It is the exclusive discretion of the decision-maker certifying the EIR to determine the adequacy of the proposed Findings. It is the role of staff to independently evaluate the proposed Findings, and to make a recommendation to the decision-maker regarding their legal adequacy.

Having received, reviewed, and considered the Final Environmental Impact Report for The Glen at Scripps Ranch Project, State Clearinghouse No. 2013071013, as well as all other information in the Record of Proceedings (as defined below) on this matter, the following Findings are hereby adopted by the City of San Diego (City) in its capacity as the CEQA Lead Agency. These Findings set forth the environmental basis for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the project.

B. Record of Proceedings

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The Notice of Preparation (NOP) and all other public notices issued by the City in conjunction with the proposed project;
- Comments received on the NOP;
- Scoping Meeting and comments received at the Scoping Meeting;
- The EIR for the proposed project;
- The Draft EIR;
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All responses to written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All written and verbal public testimony presented during a noticed public hearing for the proposed project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program (MMRP);
- The reports and technical memoranda included or referenced in the responses to public comments;
- All documents, studies, EIRs, or other materials incorporated by reference or cited to in the Draft EIR and the EIR, including all references identified in Section 11.0 of the EIR;

- All supplemental documents prepared for the EIR and submitted to the San Diego City Council (City Council) prior to the City Council hearing;
- Matters of common knowledge to the City, including but not limited to federal, state, and local laws and regulations;
- Any documents expressly cited in these Findings;
- City staff report(s) prepared for this project and any exhibits thereto;
- Project permit conditions and Findings; and
- Any other relevant materials required to be in the record of proceedings by CEQA section 21167.6(e).

Additionally, the Draft EIR and related technical studies were made available for review during the public review period at the following public library:

San Diego Public Library – Central Library
330 Park Boulevard
San Diego, California 92101

Scripps Miramar Ranch Library
10301 Scripps Lake Drive
San Diego, California 92131

The EIR was also available for review online at:
<http://www.sandiego.gov/city-clerk/officialdocs/notices/index.shtml>.

C. Custodian and Location of Records

The documents and other materials which constitute the administrative record for the City's actions related to the project, as detailed in Section I.B. above, are located at the City Development Services Department, 1222 First Avenue, Fifth Floor, San Diego, California 92101. The City Development Services Center is the custodian of the administrative record for the project. Copies of these documents, which constitute the Record of Proceedings, are and at all relevant and required times have been and will be available upon request at the offices of the City Development Services Center. This information is provided in compliance with Public Resources Code section 21081.6(a)(2) and Guidelines section 15091(e).

II. PROJECT SUMMARY

A. Project Location

The 53-acre project site is located within the Scripps Miramar Ranch Community Plan (SMRCP) area in the north central portion of the City. The project site is bounded on the south by Marine Corps Air Station (MCAS) Miramar, on the southwest by Alliant International University campus (Alliant), on the northwest by multi-family uses, on the north by Pomerado Road and single-family uses, and on the east by the Chabad Center of San Diego. A portion of the project site currently contains a baseball field, while the remainder of the site is undeveloped open space.

B. Project Description

The project would construct an age-restricted community comprised of 400 non-acute assisted living units, 50 acute assisted living units (16 of which are memory care units), and 60 skilled nursing beds. The 400 non-acute assisted living units would include 64 villa units, 48 garden terrace units, and 288 apartment style independent living units. The 50 acute assisted living units and the 60 skilled nursing beds would be located within the health center building. The project would also include a facilities building and a commons building consisting of learning centers, a lecture hall, a library, an auditorium, fine dining, fine arts facilities, a tennis court, gardens, a fitness center, an artificial turf chip and putt golf course, and a pool.

The proposed land use summary is outlined below.

PROJECT DEVELOPMENT SUMMARY

Land Use	Amount
Assisted Living Units:	
Villas	64 Units
Independent Living	288 Units
Garden Terrace	48 Units
Skilled Nursing Building	60 Beds
Acute Assisted Living Units	50 Units
Common/Recreation Building	57,600 square feet
Facilities Building	10,066 square feet
Entry Kiosk	205 square feet
Landscape/Open Space	1,456,125 square feet

The project also includes the installation of on-site water, sewer, and drainage facilities necessary to serve the new development, as well as off-site infrastructure improvements.

C. Discretionary Actions

The following discretionary actions are being considered by the City Council with advisory votes by the Planning Commission:

- General Plan Amendment
- Scripps Miramar Ranch Community Plan Amendment
- Conditional Use Permit (CUP)
- Planned Development Permit
- Site Development Permit
- Vesting Tentative Map
- Neighborhood Development Permit
- Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment

D. Statement of Objectives

As described in Section 3.1 of the EIR, the following objectives are identified for the proposed project:

The primary objectives of the proposed project are:

- Build and operate a California state-licensed continuing care retirement community (CCRC) providing a full continuum of care and services with sufficient scale to be economically viable while located within a larger community.
- Provide a continuum of care and a range of services to allow seniors to remain within the community.
- Provide housing for seniors with convenient access to medical care facilities, transportation, retail, and recreational amenities.

The City has considered the statement of objectives sought by the proposed project as found in Section 1.2 of the EIR. The City hereby adopts these objectives as part of the proposed project.

III. Environmental Review and Public Participation

In accordance with Guidelines Section 15082, the City distributed an NOP of an EIR to the State Clearinghouse, local and regional responsible agencies, and other interested parties on July 3, 2013. Various agencies and other interested parties responded to the NOP. In addition, a public scoping meeting was held on July 24, 2013. The City's NOP and comments are included in the EIR as Appendix A.

The Draft EIR for the proposed project was then prepared and circulated for review and comment by the public, agencies and organizations for a public review period that began on March 30, 2015 and concluded on May 14, 2015. A Notice of Completion of the Draft EIR was sent to the State Clearinghouse and the Draft EIR was circulated to state agencies for review through the State Clearinghouse, Office of Planning and Research (SCH No. 2013071013). A Notice of Availability of the Draft EIR for review was mailed to organizations and parties expressing interest in the project. The Notice of Availability was also filed with the City Clerk and published in the *San Diego Daily Transcript*.

The City received numerous comments on the proposed project. Those responses to comments have been incorporated into the EIR. The EIR is intended as a "project EIR" under CEQA and the Guidelines. As described in Section 15161 of the Guidelines, a project EIR is typically prepared for a specific construction-level project.

On November 19, 2015, the City of San Diego Planning Commission (Planning Commission) held a public hearing on the proposed project. The Planning Commission recommended certification of the Environmental Impact Report, adoption of the Mitigation, Monitoring and Reporting Program and Statement of Overriding Considerations and project approvals.

IV. General Findings

The City hereby finds as follows:

- Pursuant to Guidelines sections 15050 and 15051, the City is the “Lead Agency” for the proposed project evaluated in the EIR.
- The Draft EIR and EIR were prepared in compliance with CEQA and the Guidelines.
- The City has independently reviewed and analyzed the Draft EIR and EIR, and these documents reflect the independent judgment of the City Council and the City.
- The City’s review of the Draft EIR and the EIR is based upon CEQA, the CEQA Guidelines, and the City’s Significance Determination Thresholds.
- An MMRP has been prepared for the proposed project, which the City has adopted or made a condition of approval of the proposed project. That MMRP is incorporated herein by reference and is considered part of the Record of Proceedings for the proposed project.
- The MMRP designates responsibility and anticipated timing for the implementation of mitigation measures. The City will serve as the MMRP Coordinator.
- In determining whether the proposed project has a significant impact on the environment, and in adopting these Findings pursuant to Section 21081 of CEQA, the City has based its decision on substantial evidence and has complied with CEQA Sections 21081.5 and 21082.2 and Guidelines Section 15901(b).
- The impacts of the proposed project have been analyzed to the extent feasible at the time of certification of the EIR.
- Pursuant to Senate Bill 18, the City provided consultation opportunity with Native American tribes.
- The City reviewed the comments received on the Draft EIR and the responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts associated with the project. The City has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings concerning the environmental impacts identified and analyzed in the EIR.
- The response to comments on the Draft EIR, which are contained in the EIR, clarify and amplify the analysis in the Draft EIR.
- The City has made no decisions that constitute an irretrievable commitment of resources toward the proposed project prior to certification of the EIR, nor has the City previously committed to a definite course of action with respect to the proposed project.
- Copies of all the documents incorporated by reference in the EIR are and have been available upon request at all times at the offices of the City, custodian of record for such documents or other materials.
- Having received, reviewed, and considered all information and documents in the record, the City hereby conditions the proposed project and finds as stated in these Findings.

V. Summary of Impacts

The EIR contains an environmental analysis of the potential impacts associated with implementing the project. The EIR concludes that the project will have **no significant impacts and require no mitigation measures** with respect to the following issues:

- Noise
- Visual Quality/Neighborhood Character/Landform Alteration
- Health and Safety/Hazardous Materials
- Air Quality
- Greenhouse Gas Emissions
- Public Services and Facilities
- Public Utilities
- Energy
- Geology and Soils
- Hydrology
- Water Quality
- Agriculture
- Mineral Resources

The EIR concludes that implementation of the project would result in **significant impacts that would be mitigated to below a level of significance** with respect to the following issues:

- Land Use (Multiple Species Conservation Program [MSCP])
- Biological Resources
- Historical Resources
- Paleontological Resources

The following impacts **would remain significant despite the adoption of all feasible mitigation measures**:

- Land Use (Plan Consistency)
- Traffic

VI. FINDINGS REGARDING SIGNIFICANT IMPACTS

In making each of the findings below, the City has considered the project design features and plans, programs, and policies listed in the EIR. The project design features described in the EIR are part of the project that the City has considered, and the project only be constructed in accordance with the project design features regardless of whether they are explicitly made conditions of project approval. The plans, programs, and policies discussed in the EIR are existing regulatory plans and programs, which the project is subject to, regardless of whether they are explicitly made conditions of project approval.

The Guidelines state that an agency's findings must be "accompanied by a brief explanation of the rationale for each finding" (Guidelines Section 15091(a)). This requirement applies to the findings relating to mitigation of significant impacts, mitigation measures under the jurisdiction of another agency, and infeasibility of mitigation measures and alternatives required under CEQA Section 21081(a) and Guidelines Section 15091(a), (c). Detailed findings on an issue are not required if the basis for the agency's decision is found in the EIR and the agency's findings incorporate or adopt the EIR's discussion and analysis. (*Mira Mar Mobile Cmty v. City of Oceanside* (2004) 119 Cal.App.4th 477 [written findings on significant environmental effects of project, incorporating EIRs relied on and other reports in record by reference, were sufficient to show basis for agency's actions]; *Rio Vista Farm Bureau Ctr. v. County of Solano* (1992) 5 Cal.App.4th 351, 373; *No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223; *City of Poway v. City of San Diego* (1984) 155 Cal.App.3d 1037 [findings adopted for a general plan amendment were adequate because they incorporated the EIR's mitigation measures by reference]; *No Slo Transit, Inc. v. City of Long Beach* (1987) 197 Cal.App.3d 241 [policy decision to reject alternative found in reports in the record]; *Concerned Citizens of S. Cent. L.A. v. Los Angeles Unified Sch. Dist.* (1994) 24 Cal.App.4th 826, 848 [findings on impacts remaining after mitigation and infeasibility of mitigation measures were amplified by information in EIR].) Accordingly, every citation to the EIR or other documents identified in these findings is hereby incorporated by reference as if fully set forth herein. Additionally, every response to comment in the EIR relating to said citations to the EIR are also hereby incorporated by reference as if fully set forth herein.

A. Findings Regarding Significant Impacts That Can be Mitigated to Below a Level of Significance (CEQA §21081(A)(1) and CEQA Guidelines §15091(a)(1))

The City, having reviewed and considered the information contained in the EIR, and the Record of Proceedings pursuant to Public Resource Code Section 21081(a)(1) and Guidelines Section 15091(a)(1), adopts the following findings regarding the significant effects of the proposed project, as follows:

- (1) Changes or alterations have been required in, or incorporated into, the project which would mitigate, avoid, or substantially lessen the significant environmental effects as identified in the EIR as described below:

LAND USE (MSCP)

Potentially Significant Effect

A potentiality significant impact to the adjacent MHPA could occur as a result of project construction and operation. These activities have the potential to indirectly impact biological resources contained within the adjacent MHPA, namely the coastal California gnatcatcher, Cooper's hawk, Belding's orange-throated whiptail, and other nesting raptor species. Therefore, the project could result in significant indirect impacts and be inconsistent with the City's MSCP Subarea Plan.

Facts in Support of Finding (1)

The potentially significant indirect impact to the adjacent MHPA would be mitigated to below a level of significance with implementation of mitigation measures LAND-1 and LAND-2 identified in Section 4.1.5.3 of the EIR. Implementation of these mitigation measures would require, prior to issuance of any grading permits, the DSD Environmental Designee (ED) to verify that the project design has been accurately represented in the construction documents (CDs) and is in conformance with: (i) the associated discretionary permit conditions; (ii) Exhibit "A;" and (iii) the City's MSCP Land Use Adjacency Guidelines for the MHPA. The CDs are required to show MHPA boundaries on-site and on adjacent properties, identifying the potential for direct/indirect impacts where applicable. The CDs shall also show drainage details, areas for equipment storage and trash, location of fencing, lighting plans, landscaping plans including the use of native plants adjacent to or within 100 feet of the MHPA, brush management, and construction noise reduction measures.

Thereafter, prior to the start of construction, a pre-construction meeting with the crew and subcontractor is required to discuss the sensitive nature of the adjacent habitat.

During construction, verification is required that all construction activities are consistent with the CDs and MHPA Land Use Adjacency Guidelines. A qualified biologist/owner representative ("project biologist") is responsible for ensuring the limits of grading are clearly delineated by a survey crew prior to brushing, clearing, or grading, and is responsible for supervising the placement of orange construction fencing or equivalent along the limits of disturbance, which must be checked by the project biologist before initiation of construction grading. Drainage from all development areas adjacent to the MHPA is required to be directed away from the MHPA, or if not possible, to not drain directly into the MHPA, but instead into filtration devices, swales, and/or detention/desiltation devices. In addition, permanent maintenance after construction must be assured. All construction activities (including staging areas, storage, and trash areas) must be restricted to the development footprint and further comply with notes on the CDs. Inspections will be performed to assure that all lighting is directed away from preserve areas using appropriate placement and shields. The project biologist is required to assure that, as shown in the landscape plans contained within the CDs, no invasive plants are used.

To avoid disturbance to raptors and/or any native/migratory birds, construction noise that exceeds 60 A-weighted decibels [dB(A)] levels allowed shall be avoided during the breeding season for these species (February 1 to September 15). If construction is proposed during the breeding season, U.S. Fish and Wildlife Service protocol surveys will be required in order to determine species presence/absence. When applicable, adequate noise reduction measures shall be incorporated.

Upon completion of construction, the project biologist shall submit a final biological monitoring report to the Resident Engineer (RE)/Mitigation Monitoring Coordinator (MMC) within 30 days of the completion of construction. The report shall incorporate the results of the MMRP/MSCP requirements per the CDs and the Biological Monitoring Exhibit to the satisfaction of RE/MMC.

Rationale and Conclusion

The mitigation measures identified in Section 4.1.5.3 of the EIR assures that the project biologist is accountable to the DSD ED to assure that the requirements for protocol and precon surveys are met. These measures also assure that sensitive nesting bird species are detected, identified, and protected from construction activity. Implementation of these mitigation measures would reduce significant indirect impacts associated with the project adjacency to the City's MHPA to a less than significant level. Implementation of these mitigation measures would be assured through incorporation into the proposed project's MMRP. With implementation of the mitigation measures identified in the EIR, land use impacts associated with MHPA adjacency resulting from the proposed project would be mitigated to below a level of significance.

BIOLOGICAL RESOURCES (Sensitive Species)**Potentially Significant Effect**

A significant impact to sensitive wildlife species could occur as a result of project construction and operation. Implementation of the project has the potential to impact sensitive species including the coastal California gnatcatcher, Cooper's hawk, Belding's orange-throated whiptail, coast horned lizard, and other nesting raptor species. As identified in the Biological Resources Section 4.3.3.b, no coastal California gnatcatcher or raptor nests have been observed on-site; however, the on- and off-site project grading and construction, including noise, intrusion, water quality, and lighting, could have indirect impacts to Cooper's hawk, coastal California gnatcatcher, raptors, and other migratory or nesting birds located in the MHPA. Additionally, indirect impacts to sensitive species including migratory or nesting birds would be significant.

Facts in Support of Finding (1)

The significant impacts to sensitive wildlife species would be mitigated to below a level of significance with implementation of mitigation measures BIO-1a and BIO-1b identified in Section 4.3.3.3 of the EIR. In addition to the procedures required under mitigation measures LAND-1 and LAND-2, implementation of these mitigation measures would require avoidance of the breeding season for these species. If construction is proposed during the breeding season, preconstruction surveys are required to be performed by the project biologist 10 days prior to start of construction. If nesting birds are detected, additional measures consistent with City's Biology Guidelines and applicable state and federal law (i.e., appropriate follow-up surveys, monitoring schedules, construction, and noise barriers/buffers, etc.) are required to be submitted to the City DSD. Additional MSCP Subarea Plan Conditions of Coverage for, if detected, are also required to be implemented.

Rationale and Conclusion

The mitigation measures identified in Section 4.3.3.3 of the EIR assures that should sensitive species be identified, construction activity would halt or additional steps would be taken to assure that take of birds or eggs or disturbance of breeding activities is avoided. Coastal California gnatcatchers, raptor species, and other avian species have the potential to occur within

the MHPA lands adjacent to the project site. Project grading could disturb these species as a result of construction activities. Additionally, once the project is developed, edge effects may degrade the habitat value of the MHPA or disrupt wildlife within the preserve area. Mitigation measures BIO-1a and BIO-1b assure protection of the sensitive species through avoidance of breeding season and/or the requirement for additional measures to protect breeding birds. Additionally, implementation of site specific measures pursuant to the MSCP Subarea Plan assure that individual mitigation addresses the needs of specific species. Implementation of these mitigation measures would reduce significant indirect impacts to sensitive species to a less than significant level. Implementation of these mitigation measures would be assured through incorporation into the project's MMRP.

BIOLOGICAL RESOURCES (Sensitive Habitats)

Potentially Significant Effect

A significant impact to sensitive habitat could occur as a result of project construction and operation. Specifically, implementation of the project would impact 28.86 acres of sensitive upland habitat consisting of disturbed Diegan coastal sage scrub, southern mixed chaparral, disturbed southern mixed chaparral, and disturbed non-native grassland. Although with the approved MHPA Boundary Line Adjustment (BLA), all impacts would occur outside the MHPA, impacts to sensitive habitats would be significant.

Facts in Support of Finding (1)

The significant impacts to sensitive habitats would be mitigated to below a level of significance with implementation of mitigation measures BIO-2 and BIO-3 identified in Section 4.3.4.3 of the EIR. Implementation of these measures would require habitat preservation/restoration mitigation in accordance with the San Diego Land Development Code (LDC) Biology Guidelines, as specified in EIR Table 4.3-4 based on all mitigation occurring within the MHPA. The on-site MHPA land is required to be conveyed to the City's MSCP, with the identification of a secured funding source for land management in perpetuity.

Rationale and Conclusion

The mitigation measures identified in Section 4.3.4.3 of the EIR would provide approximately 11.75 acres of native habitat mitigation. This acreage of preservation of native habitat will provide protected foraging habitat in perpetuity, either on- and/or off-site. Specifically, the preservation (on- or off-site) of sensitive habitat/raptor foraging habitats is based on the appropriate ratio specific to each type of vegetation community in conformance with the mitigation ratios required by the LDC Biological Guidelines. The mitigation reduces the impact to sensitive habitat resulting from on-site grading to below a level of significance through the preservation of these habitats within open space secured in perpetuity. Implementation of these mitigation measures would be assured through incorporation into the project's MMRP.

BIOLOGICAL RESOURCES (Jurisdictional Wetlands and Waters)**Potentially Significant Effect**

A significant impact to jurisdictional wetlands and waters would occur as a result of project construction and operation. Specifically, implementation of the project would impact 0.17 acre of non-wetland streambed waters regulated by the U.S. Army Corps of Engineers (ACOE), California Department of Fish and Wildlife (CDFW), and Regional Water Quality Control Board (RWQCB). Impacts to these jurisdictional resources would be significant.

Facts in Support of Finding (1)

The significant impacts to jurisdictional wetlands and waters would be mitigated to below a level of significance with implementation of mitigation measures BIO-4, BIO-5, and BIO-6 identified in Section 4.3.5.3 of the EIR. Implementation of these measures would require additional notification, and receive permits from the ACOE Section 404 Nationwide Permit Program, a Streambed Alteration Agreement from the CDFW, and a 401 Water Quality Certification from the RWQCB. The applicant would be required to mitigate consisting of a 2:1 establishment/creation of riparian habitat equivalent to a minimum of 0.34 acre of riparian habitat, in accordance with City of San Diego's wetland mitigation requirements. The location of the establishment/creation area, methods involved implementing the mitigation effort, and a maintenance and monitoring program are provided in a conceptual mitigation plan, Non-Wetland Waters Mitigation Plan for The Glen at Scripps, dated March 16, 2016, included in Appendix E of the EIR. The project biologist is required to submit a final Wetland Mitigation Plan to the ACOE, RWQCB, San Diego (Park and Recreation, EAS, and MSCP), and CDFW for review and approval.

Rationale and Conclusion

The mitigation measures identified in Section 4.3.5.3 of the EIR would provide a minimum of 0.34 acre of riparian habitat. These mitigation measures would reduce significant impacts to jurisdictional waters because they are based on a 2:1 establishment/creation ratio which ensures a no net loss of this habitat. The additional requirement for a Wetland Mitigation Plan ensures ongoing vitality and preservation of the riparian areas. The mitigation reduces the impact to jurisdictional wetlands and waters to below a level of significance. Implementation of these mitigation measures would be assured through incorporation into the project's MMRP.

HISTORICAL RESOURCES (Prehistoric/Historic Resource)**Potentially Significant Effect**

There is a potential for a significant impact to prehistoric/historic resources as a result of the project's grading. Specifically, subsurface cultural deposits could exist within the area currently mapped as the Carroll Canyon floodplain. If present, grading would uncover and destroy these subsurface resources, thereby resulting in a significant impact.

Facts in Support of Finding (1)

The potentially significant impacts to prehistoric/historic resources would be mitigated to below a level of significance with implementation of mitigation measure HIST-1 identified in Section 4.5.3.3 of the EIR. Implementation of this mitigation measure would require that, prior to any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, or prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) ED must verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the appropriate CDs. Also prior to permit issuance, the applicant is required to submit a letter of verification to a Mitigation Monitoring Coordinator (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). The MMC will respond to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project. Prior to the start of work, the applicant is required to obtain approval from MMC for any personnel changes associated with the monitoring program.

Prior to start of construction, this mitigation measure requires the PI to provide verification to the MMC that a site-specific records search (¼ mile radius) has been completed. Verification includes, but is not limited to, a copy of a confirmation letter from South Coast Information Center, or, if the search is conducted in-house, a letter of verification from the PI stating that the search was completed, and identification of any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Prior to beginning any work that requires monitoring, this mitigation measure requires the applicant to arrange a preconstruction meeting including the PI, Construction Manager (CM) and/or Grading Contractor, RE, Building Inspector (BI), if appropriate, and MMC. Additionally, the qualified Archaeologist and Native American monitor shall attend any grading/excavation related preconstruction meetings to make comments and/or suggestions concerning the Archaeological Monitoring program. If the PI is unable to attend, the applicant is required to schedule a focused preconstruction meeting with MMC, the PI, RE, CM or BI, if appropriate prior to the start of any work that requires monitoring.

Implementation of this mitigation measure requires the PI, prior to the start of any work, to submit an Archaeological Monitoring Exhibit (AME) identifying the areas to be monitored, including the delineation of grading/excavation limits, and a construction schedule to MMC through the RE indicating when and where monitoring will occur. The PI may request a modification to the monitoring program based on relevant information which indicates that site conditions, such as depth of excavation and/or site graded to bedrock, etc., may reduce or increase the potential for resources to be present.

Implementation of this mitigation measure requires the Archaeological Monitor to be present full-time during all soil disturbing and grading/excavation/trenching activities that could result in impacts to archaeological resources as identified on the AME. Additionally, the Native American monitor shall determine the extent of their presence during construction-related activities based on the AME and provide that information to the PI and MMC.

Thereafter, the CM is responsible for notifying the RE, PI, and MMC of changes to any construction activities. Included in this mitigation measure is the requirement that the Archaeological Monitor document field activity via the Consultant Site Visit Record (CSVR), which is to be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly, and in the case of any discoveries. The RE shall forward copies to the MMC. The mitigation measure provides that 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 may reduce or increase the potential for resources to be present.

Implementation of this mitigation measure requires a discovery notification process whereby the Archaeological Monitor is required to direct the contractor to temporarily suspend all soil disturbing activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE or BI, as appropriate, and PI (unless the Archaeological Monitor is the PI). Additionally, the PI is required to immediately notify the MMC by phone of the discovery, and submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

This mitigation measure provides a protocol for the determination of significance of resources found. Specifically, the PI and Native American monitor are required to evaluate the significance of the resource, notify the MMC by phone to discuss significance determination and submit a letter to the MMC indicating whether additional mitigation is required. If the resource is considered significant, the PI is required to submit an Archaeological Data Recovery Program (ADRP) and obtain written approval from the MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume. If the resource is not significant, the PI is required to 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 no further work is required.

If human remains are discovered, implementation of this mitigation measure requires that work stop in that area and the procedures as set forth in the California Public Resources Code (Section 5097.98) and State Health and Safety Code (Section 7050.5) are followed. These are also detailed in the EIR.

Implementation of this mitigation measure requires that, if night and/or weekend work is to be performed, the extent and timing be discussed at preconstruction meetings. In the event that no discoveries were encountered during night and/or weekend work, the PI is required to record the information on the CSVR and submit to MMC via fax by 8 A.M. of the next business day. All discoveries are required to be processed and documented using the existing procedures detailed in the Discovery Notification Process identified in the mitigation measure.

Upon completion of construction, the PI is required to submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the City's Historical Resources Guidelines, describing the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics), including the ADRP, to MMC for review and

approval within 90 days following the completion of monitoring. This mitigation measure requires the PI to record any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report. The MMC shall return the Draft Monitoring Report to the PI for revision or for preparation of the Final Report. The PI shall submit the revised Draft Monitoring Report to the MMC for approval. The MMC shall provide written verification to the PI of the approved report and shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

With respect to artifacts found, implementation of this mitigation measure requires the PI to be responsible for ensuring that all cultural remains collected are cleaned and cataloged; 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. The cost for curation is the responsibility of the property owner.

The PI is 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, completed in consultation with the MMC and a Native American representative, as applicable. The PI is also required to include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

Implementation of this mitigation measure lastly requires the PI to submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate and one copy to the MMC (even if negative) within 90 days after notification from the MMC that the draft report has been approved. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from the MMC which includes the Acceptance Verification from the curation institution.

Rationale and Conclusion

The mitigation measures identified in Section 4.5.3.3 of the EIR would assure the recording and recovery of important prehistoric/archaeological information which may otherwise be lost during construction of the project. The requirement for an archaeological monitor along with a Native American monitor present for all grading activities, along with specified processes, assures that grading will be halted or diverted should any discovery be made. In the event that human remains are unearthed during grading activities, the Medical Examiner and/or the NAHC would be contacted as required to ensure that the proper steps are taken.

These mitigation measures would reduce potentially significant impacts to prehistoric/historical resources to a less than significant level. Implementation of these mitigation measures would be assured through incorporation into the proposed project's MMRP.

PALEONTOLOGICAL RESOURCES

Potentially Significant Effect

There is a potential for a significant impact to paleontological resources as a result of the project's grading. Specifically, due to the high sensitivity potential for paleontological resources, project grading could destroy fossil remains resulting in significant impacts to paleontological resources.

Facts in Support of Finding (1)

The potentially significant impacts to prehistoric/historic resources would be mitigated to below a level of significance with implementation of mitigation measure PALEO-1 identified in Section 4.6.3.3 of the EIR. Implementation of this mitigation measure would require, prior to the issuance of any construction permit, the ADD ED to verify that the requirements for paleontological monitoring have been noted on the appropriate CDs. Thereafter, letters of qualifications of all persons involved in the paleontological monitoring program must be submitted to the MMC. This mitigation measure requires that, prior to the start of construction, the following occurs: a site-specific records search, identification of expectations and probabilities of discovery, and a preconstruction meeting intended to include a discussion of the Paleontological Monitoring Program. The PI is required to prepare a Paleontological Monitoring Exhibit (PME) based on the preceding information and provide a construction schedule to the MMC indicating when and where monitoring will occur.

The monitor is required to be present full time during grading/excavation/trenching activities as identified on the PME. In the event of a discovery, trenching activities in the area of discovery is required to stop and the monitor to immediately notify all appropriate parties as detailed in the EIR, including the MMC. The resource is required to be studied so a determination of significance can be made. If the resource is significant, the PI is required to submit a Paleontological Recovery Program and obtain written approval from the MMC. The PI shall submit a letter to the MMC indicating that the resource will be collected, curated, and documented in the Final Monitoring Report, before ground disturbing activities in the area of discovery will be allowed to resume.

Upon completion of construction, a Draft Monitoring Report (even if negative) is required to be prepared in accordance with the Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to the MMC. Additional details are included in the EIR; however, it should be noted that the PI is responsible for recording any significant or potentially significant fossil resources encountered and for ensuring that all fossil remains collected are cleaned and cataloged.

Rationale and Conclusion

The mitigation measures identified in Section 4.6.3.3 of the EIR would assure the recording and recovery of important paleontological information which may otherwise be lost during construction of the proposed project. The requirement for a monitor to be present for all

construction activities, along with the specified processes, assures that grading will be halted or diverted should any discovery be made. Implementation of the mitigation measure assures that significance testing occurs right away and that important discoveries are reported and/or collected. Through this mitigation measure potentially significant impacts to paleontological resources would be reduced to less than significant. Implementation of this mitigation measure would be assured through incorporation into the proposed project's MMRP.

B. Findings Regarding Mitigation Measures Which are the Responsibility of Another Agency (CEQA § 21081(A)(2) and Guidelines § 15091(a)(2))

The City, having reviewed and considered the information contained in the EIR and Record of Proceedings, finds pursuant to CEQA Section 21081(a)(2) and Guidelines Section 15091(a)(2) that there are no changes or alterations which could reduce significant impacts that are within the responsibility and jurisdiction of another public agency.

C. Findings Regarding Infeasible Mitigation Measures (CEQA § 21081(A)(3) and Guidelines § 15091(a)(3))

In making each of the findings below, the City has considered the measures as described above, as well as applicable mitigation measures listed in the EIR. The identified mitigation measures are described for individual direct impacts in the EIR, and are included under the associated issue headings in Sections 4.0 and 10.0 of the EIR. This section includes discussion of direct impacts for which mitigation measures were identified in the EIR but are determined to be infeasible (for reasons outlined below), as well as impacts for which the EIR concluded that no feasible mitigation measures were available. It should also be noted that a number of the mitigation measures outlined below, while not avoiding or reducing identified impacts to below a level of significance, would reduce associated direct project impacts to the maximum extent feasible.

Specific economic, legal, social, technological, or other considerations, including considerations of the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR (Project No. 146803/SCH No. 2008061058) as described below.

Under CEQA, “[i]t is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. The Legislature further finds and declares that in the event *specific economic, social, or other conditions make infeasible* such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.” (Pub. Res. Code § 21002.) (Emphasis added.) Moreover, CEQA defines “feasible” as ““capable of being accomplished in a successful manner within a reasonable period of time, taking into account, economic, social, legal, and technological factors” (Guidelines § 15364).

Economic Infeasibility – This criterion is applicable when evidence exists in the record to verify that economic conditions would render the identified improvement(s) infeasible. More specifically, economic infeasibility can include evidence that (a) the cost of the mitigation measure(s) is(are) significantly more than the cost of the project; (b) the project cannot be

economically successful with imposition of the mitigation measure(s); (c) imposition of the mitigation measure(s) will render it impractical to proceed with the project; (d) the mitigation measure(s) would not provide a margin of profit sufficient to attract the type of investors necessary to fund the project; (e) the project applicant would be unable to secure financing for the project if the mitigation measure(s) was(were) imposed; or (f) project implementation delays associated with obtaining required environmental permits prior to occupancy will render project funding processes (e.g., construction loans) impracticable.

Legal Infeasibility – This criterion is applicable when there is evidence that legal statutes, rules, regulations, and/or case law render the identified improvement(s) infeasible. With respect to the proposed project, legal infeasibility criteria include, but are not necessarily limited to conditions when the mitigation measure(s) require(s) the lead agency to take actions that are beyond the powers allowed by law.

Social Infeasibility/Other Considerations – Pursuant to Section 15091(a)(3) of the CEQA Guidelines, this criterion is applicable when there is evidence that social and/or other issues render the identified improvement(s) infeasible. Specifically, for the proposed project social and other infeasibility can include, but are not limited to, the following condition: the mitigation measure(s) conflict(s) with General Plan, SMRCP, and/or other related land use plan and design goals and policies.

As indicated by the case law below, alternatives and mitigation measures may be determined infeasible on the grounds that they conflict with City policy or the project's stated goals and objectives. In *Cal. Native Plant Soc'y v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001, the court recognized that an agency's determination whether to reject the alternatives discussed in the EIR, and approve the proposed project, allows the agency to weigh policy considerations. The City of Santa Cruz found the alternatives infeasible because they would not accomplish its policy goals of promoting transportation alternatives and access to persons with disabilities. The court concluded that CEQA language allowing the agency to determine infeasibility based on social and other considerations demonstrates that an agency can find an alternative infeasible because it is undesirable as a matter of policy. (See also *Defend the Bay v. City of Irvine* (2004), 119 Cal.App.4th 1261 [upholding City's finding that it was infeasible to impose on-site and off-site mitigation measures for project's impact to 3,100 acres of prime farmland because it would "impede the City from achieving its General Plan goals and objectives for housing and improving the existing jobs/housing imbalance in the City"]; *Cherry Valley Pass Acres & Neighbors v. City of Beaumont Sunny Cal Egg Poultry Co.* (2010), 190 Cal.App.4th 316 [upholding findings of infeasibility for mitigating loss of agricultural resources due to economic and social infeasibility].)

In *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1503, the Court held that the project applicants' letter demonstrating that project could not be reconfigured to accommodate impact-reducing alternative was sufficient to support finding of infeasibility. In *Ass'n of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1401, the Court held evidence that a reduced-size project would not fully meet project objectives to enhance profits, and might not be economically viable, was sufficient to support infeasibility finding. Finally, in *Sequoiah Hills*

Homeowners Ass'n v. City of Oakland (1993) 23 Cal.App.4th 704, 715, the Court held that the project applicant's comments, based on market surveys, that lower density project would be inconsistent with objective of providing least expensive single-family housing in area supported infeasibility finding. Pursuant to Section 15091(a)(3) of the Guidelines, this criterion is applicable when there is evidence that social and/or other issues render alternatives infeasible. Specifically social infeasibility can include, but are not limited to, the following conditions: (i) the alternatives conflict with related land use plans and design goals and policies; (ii) the alternatives conflict with stated project goals and objectives; and (iii) the alternatives cannot be implemented within a reasonable period of time.

With respect to the proposed project, while mitigation measures are proposed, these impacts have the potential to remain significant and unmitigated should the mitigation measures fail to be implemented. Therefore, they are appropriately categorized under this finding.

LAND USE (Plan Consistency)

Potentially Significant Effect

The project would result in increased traffic on Pomerado Road. The increased unmitigated congestion on Pomerado Road would conflict with Transportation Objectives of the SMRCP associated with the alleviation of traffic congestion. The inconsistency with community plan goals results in a significant impact.

Facts in Support of Finding (3)

As demonstrated in EIR Table 4.1-1, the project would be consistent with most of the applicable General Plan and SMRCP goals, objectives, and policies. However, the project would result in significant direct and cumulative impacts to Pomerado Road as a result of the increase in traffic (see EIR Section 4.2). The widening of Pomerado Road is not proposed and therefore traffic impacts would remain. The remaining significant and unmitigated traffic impacts (see below) results in a remaining significant and unmitigated impact associated with land use (Plan Consistency).

Rationale and Conclusion

Improvement to Pomerado Road to provide an additional eastbound and westbound through lane, as described in the TIA, would reduce impacts along Pomerado Road to less than significant; however, the four-lane major street classification of Pomerado Road adjacent to the project area was downgraded to a two-lane collector on October 26, 1993, through Resolution R-282903. The improvement was also deleted from the former Pomerado Road Widening CIP programming sheet. As a result of the City Council action, widening of Pomerado Road is not proposed and therefore direct and cumulative traffic impacts would remain. Because traffic impacts would remain, the project would conflict with goals of alleviating traffic in the region. The impacts would remain significant and unmitigated.

TRAFFIC CIRCULATION (Capacity)

Potentially Significant Effect

The project would result in increased traffic on Pomerado Road. Specifically, the project would result in the following direct and cumulative impacts to street segments and intersections:

Direct Impacts

Street Segments

Significant direct impacts would occur at the following four locations:

- Pomerado Road between Interstate 15 (I-15) northbound ramps and Willow Creek Road.
- Pomerado Road between Willow Creek Road and Scripps Ranch Boulevard.
- Pomerado Road between Scripps Ranch Boulevard and Chabad Center Driveway.
- Pomerado Road between Chabad Center Driveway and Avenida Magnifica.

Intersections

Significant direct impacts would occur at one location:

- Pomerado Road and Willow Creek Road.

Cumulative Impacts

Street Segments

Significant cumulative traffic impacts would occur at the following four locations:

- Pomerado Road between I-15 northbound ramps and Willow Creek Road.
- Pomerado Road between Willow Creek Road and Scripps Ranch Boulevard.
- Pomerado Road between Scripps Ranch Boulevard and Chabad Center Driveway.
- Pomerado Road between Chabad Center Driveway and Avenida Magnifica.

Intersections

Significant cumulative impacts would occur at two locations:

- Pomerado Road and Willow Creek Road.
- Pomerado Road and Scripps Ranch Boulevard.

Facts in Support of Finding (3)

As detailed in the project's Traffic Impact Analysis (TIA) (Appendix D of the EIR), an additional eastbound and westbound through lane provided on Pomerado Road would mitigate direct and cumulative impacts to street segments and intersections to an acceptable LOS. This mitigation is infeasible (see Rationale) and not proposed. Therefore, impacts associated with traffic capacity would be significant and unmitigated. Additionally, because the project would

not reduce traffic impacts, the project would conflict with goals of alleviating traffic in the region.

Rationale and Conclusion

Improvement to Pomerado Road to provide an additional eastbound and westbound through lane, as described in the TIA, would reduce impacts along Pomerado Road to less than significant; however, the four-lane major street classification of Pomerado Road adjacent to the project area was downgraded to a two-lane collector on October 26, 1993, through Resolution R-282903. The improvement was also deleted from the former Pomerado Road Widening CIP programming sheet. The downgrade of the road was intended to preserve the eucalyptus trees and maintain community character of the area as identified by multiple goals throughout the Scripps Miramar Ranch Community Plan (see FEIR Table 4-1). Specifically, the Community Plan contains Overall Community Goals aimed at the preservation of the natural resources of the community including the Eucalyptus trees (Objective a), and the maintenance of the rural-residential characteristics of Scripps Miramar Ranch.

As a result of the City Council action, widening of Pomerado Road is not proposed and therefore direct and cumulative street segment and intersection impacts would remain. Because these impacts would remain, the project would conflict with goals of alleviating traffic in the region. The impacts would remain significant and unmitigated.

D. Findings Regarding Alternatives Considered and Rejected

Pursuant to Guidelines Section 15126.6, the range of potential alternatives to the proposed project shall include those that could feasibly accomplish most the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency, but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the Lead Agency's determination. Additional information explaining the choice of alternative may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

Three alternatives to the project were considered but rejected: (i) Alternative Access Route Alternative; (ii) Alternative Location Alternative; and (iii) Skilled Nursing Building Alternative. Among factors used to eliminate alternatives from detailed consideration in the EIR is failure to meet most of the basic project objectives or inability to avoid significant environmental effects. Under the Alternative Access Route Alternative, an alternate route would provide access to the project site and would keep project trips off Pomerado Road in an effort to avoid significant and unavoidable impacts due to congestion along this primary community corridor. This alternative was rejected because it was determined that there are no reasonable and superior access routes. Pomerado Road is the only major roadway providing access in the immediate vicinity of the project. The Alternative Location Alternative was rejected because there are no other sites in the SMRCP area or adjoining communities that are within the Applicant's control that would support the project needs. The project site would support the proposed development, and is

located in close proximity to qualified residents, health care services, and commercial areas. Moving the project to an alternate site would not necessarily avoid or substantially lessen the project's impacts. Under the Skilled Nursing Building Alternative, only the 60-bed skilled nursing building component of the project would be constructed. However, this alternative was rejected because it would not meet any of the project objectives including the provision of assisted living units and a range in care and service within the project community.

E. Findings Regarding Alternatives Considered in the EIR

The EIR examined three alternatives: No Project (No Development) Alternative; No Project-Alternative Consistent with the Approved CUP Alternative; and Reduced Grading/Development Alternative. These project alternatives are summarized below, along with the findings relevant to each alternative.

Because the proposed project could cause one or more unavoidable significant environmental effects the City must consider the feasibility of alternatives to the proposed project, evaluating whether these alternatives could avoid or substantially lessen the proposed project's unavoidable significant environmental effects while achieving most of its objectives (listed in Section II.E above or Section 3.1 of the EIR).

Findings for All Alternatives

The City, having reviewed and considered the information contained in the EIR and the Record of Proceedings, and pursuant to CEQA Section 21081(a)(3) and Guidelines Section 15091(a)(3), finds that specific economic, legal, social, technological, or other considerations, including considerations of the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR as described below. More specifically, based upon the administrative record for the proposed project, the City makes the following findings concerning the alternatives to the proposed project.

No Project (No Development) Alternative

The No Project (No Development) Alternative for the project would be the maintenance of the site in its current undeveloped condition and would be equivalent to the existing environmental setting. Should the No Project (No Development) Alternative be implemented, the project's significant impacts associated with traffic on Pomerado Road would not occur. While adoption of the No Project (No Development) Alternative would maintain the existing undeveloped condition of the site and avoid impacts associated with the project (as described throughout Chapter 4.0); none of the project objectives would be attained.

Potentially Significant Effects and Grounds for Infeasibility

Under this alternative, the project site would remain in its current undeveloped condition. Continued use of the project site in its existing condition would result in no significant impacts. However, this alternative would not meet the basic or the most important project objectives. Therefore, the grounds for infeasibility are that it would not meet the basic or the most important project objectives.

Facts in Support of Finding (3)

While adoption of the No Project (No Development) Alternative would avoid the proposed project's significant impacts, none of the project objectives would be attained. Specifically, it would not provide a continuum of care and a range of services to allow seniors to remain within the community. In addition, it would not provide housing for seniors with convenient access to medical care facilities, retail, and recreational amenities. Since this alternative would not meet the project objectives, the No Project (No Development) Alternative would be considered infeasible.

No Project - Alternative Consistent with Approved CUP

The project site is currently a part of Alliant International University, is designated as University land use in the SMRCP, and is permitted by CUP 133-PC. In accordance with the Alternative Consistent with Approved CUP, the project site would be developed with the uses as permitted by CUP 133-PC. The uses permitted by CUP 133-PC on the project site include an auditorium (cultural education center) to accommodate a maximum of 2,100 persons; academic facilities consisting of classrooms, lecture halls, faculty offices, and student study areas; a physical education gymnasium and play field; residence halls; an amphitheater; and permanent and temporary parking. The development footprint includes the entire project site.

Potentially Significant Effects and Grounds for Infeasibility

CUP 133-PC was approved prior to CEQA; therefore, there is no environmental documentation related to the development proposed thereunder. However, the impacts associated with the Alternative Consistent with Approved CUP were compared to those associated with the proposed project. Street segment impacts were calculated for the existing, near-term, and year 2030 with and without the Alternative Consistent with the Approved CUP (see Section 9.0, Alternatives). As summarized in Tables 9-6, 9-7, and 9-8 of the EIR, the existing, near-term, and year 2030 with and without the Alternative Consistent with the Approved CUP street segment impacts, when compared to the project, would result in greater significant and unavoidable traffic impacts. As a result of the increase in traffic and intensity of development, impacts associated with noise, air quality, and greenhouse gas (GHG) emissions would also be greater than the project. Impacts associated with other issue areas (e.g., biology, aesthetics, noise, and public services) analyzed in the EIR would be incrementally increased because of increased intensity, grading, and traffic associated with this alternative. This alternative would not meet the basic or the most important project objectives. Therefore, the grounds for infeasibility are that it would not meet the basic or most important project objectives.

Facts in Support of Finding (3)

Adoption of this alternative would likely result in a substantial increase in the environmental impacts associated with development of the site while not attaining the objectives of the proposed project. Specifically, it would not provide a continuum of care and a range of services to allow seniors to remain within the community nor would this alternative provide housing for seniors with convenient access to medical care facilities, retail, and recreational amenities. This alternative would not achieve the project objectives and would potentially increase the environmental impacts over those identified for the proposed project. The No Project -

Alternative Consistent with the Approved CUP does not avoid or reduce significant and unmitigated impacts and would be considered infeasible.

Reduced Grading/Development Alternative

The Reduced Grading/Development Alternative would construct fewer CCRC units and would reduce the grading footprint compared to the project. To eliminate encroachment into steep hillsides, this alternative would result in 22 fewer “Villa” units when compared to the proposed project, and there would be no grading of the steep hillsides located in the southwest corner of the project site. In addition to the loss of these units, to avoid impacts to steep hillsides, an additional shift and redesign of the independent living units and commons building would be required, which could further reduce the number of units.

Potentially Significant Effects

To provide a comparison of traffic impacts with the proposed project, street segment impacts were calculated for the existing, near-term, and year 2030 with and without the Reduced Grading/Development Alternative (see Section 9.0, Alternatives). As demonstrated, this alternative would reduce the number of trips on Pomerado Road, but would still result in significant unmitigated traffic impacts. By reducing the development footprint and grading, and preserving more undisturbed open space, project-related impacts associated with visual quality/neighborhood character/landform alteration, biological resources, historical resources, and paleontological resources would be accordingly reduced when compared to the project. This alternative would reduce the impacts associated with landform alteration from the grading into steep hillsides. However, the impacts for other issues from the Reduced Grading/Development Alternative would be the same as compared to the project.

Facts in Support of Finding (3)

While this alternative would allow for a CCRC and would meet some of the project objectives, the impacts associated with this alternative would generally be similar to the proposed project. In addition, the elimination of the 22 units at the “Villas” as a project component would not reduce the staffing needs of the proposed project. Furthermore elimination of the “Villas” product narrows the range of units that would be available at the CCRC. Therefore, because important project objectives are not met and the alternative does not avoid or reduce significant and unmitigated impacts as compared to the project, this alternative is considered infeasible.

VII. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code Section 21081(b) and CEQA Guidelines Section 15093, the City has balanced the benefits of the proposed project against unavoidable adverse impacts. The City also has examined a reasonable range of alternatives to the proposed project, none of which are feasible.

The proposed project will result in unavoidable adverse impacts to land use (Plan Consistency) and transportation/circulation impacts. The City, after balancing the specific economic, legal, social, technological, and other benefits of the proposed project as revised, has determined that the unavoidable adverse environmental impacts, which consist of direct and cumulative traffic impacts to street segments and intersections on Pomerado Road, identified above are considered “acceptable” due to the specific considerations described herein, which outweigh the unavoidable adverse environmental impacts of the proposed project. Each of the separate benefits of the proposed project, as stated herein, is determined to be, unto itself and independent of the other project benefits, a basis for overriding all unavoidable adverse environmental impacts identified in these Findings.

Pursuant to Guidelines Section 15093, CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

If the specific economic, legal, social, technological, or other benefits, including considerations for the provision of employment opportunities for highly trained workers outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable pursuant to Public Resources Code Section 21081. CEQA further requires that when the Lead Agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record.

The decision-making body, having considered all of the foregoing, finds that the specific overriding economic, legal, social, technological, or other benefits described herein and associated with the proposed project outweigh the unavoidable adverse direct and cumulative impacts related to land use (Plan Consistency) and transportation/ circulation. Therefore, the City expressly finds that the following benefits would outweigh the unavoidable adverse environmental impacts of the proposed project:

A. Local Economic Benefits:

- The proposed project will make use of an unused university property to ensure future economic vibrancy within the Scripps Miramar Ranch community. The resulting project will function as an integrated component of the community.
- The proposed project will create new jobs, providing all levels of construction employment opportunities as well as highly skilled operational positions. Specifically, the project will employ approximately 200 full-time equivalent jobs in multiple fields including, but not limited to, administration, nursing, physical therapy, food service, maintenance, landscaping, and environmental services.
- Development of vacant land will result in an increase of property tax revenues.

B. Biological Benefits:

- The proposed project includes a BLA which would increase MHPA area.

C. Housing Benefits:

- The City's General Plan Housing Element identifies that there are housing needs for elderly and people with disabilities, and includes the goals of fostering a housing stock that meets the needs of all residents across lifecycles. The proposed project benefits the City because it implements these and other goals of the current Housing Element.

D. Social Benefits:

- The proposed project will provide a state-licensed CCRC that accommodates a full range of care and services.
- The proposed project will allow seniors to remain within their community by expanding CCRC options in the SMRCP area.
- The proposed project will provide housing for seniors with convenient access to medical care facilities, retail, and recreational amenities.

VIII. CONCLUSION

For the foregoing reasons, the City concludes the following: (1) the proposed The Glen at Scripps Ranch will result in significant and unavoidable impacts; and (2) the project will result in numerous public benefits, each of which individually is sufficient to outweigh the unavoidable environmental impacts. Therefore, the City adopts this Statement of Overriding Considerations.