

**DRAFT FINDINGS OF FACT AND STATEMENT OF OVERRIDING  
CONSIDERATIONS REGARDING FINAL ENVIRONMENTAL IMPACT REPORT  
FOR THE CASTLEROCK PROJECT  
PROJECT NUMBER 10046  
SCH No. 2004061029**

**June 20, 2013**

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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 State CEQA 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 CEQA 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 §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 §15093 does not substitute for the findings required by this section.

The “changes or alterations” referred to in CEQA Guidelines §15091(a)(1) above, that are required in, or incorporated into, the project which mitigate or avoid the significant environmental effects of the project (a.k.a. “project design features”), may include a wide variety of measures or actions as set forth in CEQA Guidelines §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 (SOCs) 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 the SOCs, CEQA Guidelines §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 and Statement of Overriding Considerations have been submitted by the Applicant following their preparation by legal, environmental, engineering, planning and economic experts whose opinions are based on their review of the entire administrative record and their familiarity with the project, the environment of the project site and its vicinity, and the applicable rules and regulations of the public agencies involved in approval, implementation, and regulations of the project. Experts in these same disciplines at the Development Services Department (DSD), Environmental Analysis Section (EAS) and other City of San Diego (City or San Diego) agencies who are familiar with the project independently evaluated the findings and concur that they are legally adequate and supported by substantial evidence. Following its independent review, it is exclusively discretion of the decision-maker certifying the Final EIR to make a final determination regarding the adequacy of the proposed Candidate Findings and Statement of Overriding Considerations.

Having received, reviewed and considered the Final EIR for the Castlerock Project, State Clearinghouse No. 2004061029 (FEIR), as well as all other information in the Record of Proceedings on this matter, the following Candidate Findings and SOCs are hereby adopted by the City in its capacity as the CEQA Lead Agency and the FEIR certified as being completed in compliance with CEQA. These Findings and Statement of Overriding Considerations 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. The Findings and Statement of Overriding Considerations presented herein are based on substantial evidence in the entire record before the City and reflect the City's independent judgment and analysis as the project CEQA Lead Agency. References to the Draft EIR and FEIR with project level analysis set forth in these Findings and Statement of Overriding Considerations are for ease of reference, and are not intended to provide an exhaustive list of the evidence relied upon for the Findings and Statement of Overriding Considerations.

## **B. Record of Proceedings**

For purposes of CEQA and these Findings and Statement of Overriding Considerations, the Record of Proceedings for the 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 project;
- Comments received on Notice of Preparation;
- Scoping Meeting and comments received at Scoping Meeting;
- The FEIR for the 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 Responses to Comments in the FEIR;
- All documents, studies, EIRs, or other materials incorporated by reference or cited to in the Draft EIR and the FEIR, including all references identified in Section 11.0 of the FEIR;
- All errata sheets prepared for the FEIR 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 reports prepared for this project and any exhibits thereto;
- Project permit conditions, findings, and the Mitigation Monitoring and Reporting Program;
- Any other relevant materials required to be in the record of proceedings by Public Resources Code §21167.6(e);
- The Project's Fiscal Impact Analysis prepared by Leppert Engineering Corporation for San Diego and Santee and references cited therein;
- Employment Study prepared by DPF&G;



- Plan for Services prepared by Leppert Engineering;
- East Elliott Public Facilities Financing Plan
- The Castlerock Fire Protection Plan prepared by Firewise, Inc. and references cited therein; and
- Annexation Agreement among Pardee, Padre Dam, City of San Diego, and City of Santee.

**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 are located at the City of San Diego, Development Services Center, 1222 First Avenue, Fifth Floor, San Diego, CA 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 times have been and will be available upon request at the offices of the City Development Services Center. The Draft EIR also was placed on the City's web-site at:

<http://clerkdoc.sannet.gov/Website/publicnotice/pubnotceqa.html>.

This information is provided in compliance with Public Resources Code §21081.6(a)(2) and CEQA Guidelines §15091(e).

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

San Diego Public Library  
 Central Library  
 820 E Street  
 San Diego, CA 92101

Santee Branch County Library  
 9225 Carlton Hills Blvd. #17  
 Santee, CA 92071

**II. PROJECT SUMMARY**

**A. Project Location**

The 203.64-acre project site is located within the East Elliott Community Planning Area in the eastern portion of the City, adjacent to the City of Santee. The project site is located to the north of West Hills High School and Mission Trails Regional Park, west of a residential neighborhood and Santee Lakes Recreational Area, and east of the Sycamore Landfill. The site is locally accessed via Mast Boulevard and regionally accessed by State Route 52.

## **B. Project Description**

The project includes two scenarios: the Annexation Scenario and the No Annexation Scenario. The Annexation Scenario includes the annexation of the development from San Diego to the City of Santee (Santee) and Padre Dam Municipal Water District (PDMWD). Under the No Annexation Scenario, the site would remain in San Diego's jurisdiction. Each of these two project scenarios are described below.

The Annexation Scenario would result in the construction of a 430-unit residential development with 283 detached single-family residences and 147 single-family detached units clustered on larger lots (referred to as green court units), approximately 4.0 acres (gross) of public parks, 0.64 acre (0.49 acre usable) of pocket parks, a pedestrian trail, and public streets and private driveways on the project site. The remaining 94.92 acres of the property would be preserved as Multiple Habitat Planning Area (MHPA) open space.

The No Annexation Scenario would result in the construction of a 422-unit residential development with 282 detached single-family residences, 140 single-family green court units, approximately 4.0 acres (3.0 acres usable) of public parks, 0.50 acre (0.39 acre usable) of pocket parks, a pedestrian trail, and public streets and private driveways and 94.73 acres of MHPA open space.

Both scenarios' project design features also include grading, infrastructure improvements, landscaping, "green" building design, a fire protection plan, and subsurface ordnance and explosives (OE) clearance. In both scenarios, access would be provided from Mast Boulevard from the south. The No Annexation Scenario would require more substantial infrastructure improvements since the project site is not located near existing City services (i.e., water and wastewater), including a water reservoir, pump station, and off-site pipeline extensions. Refer to the FEIR Chapter 3.0 for a complete project description.

## **C. Discretionary Actions**

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

### **Both Scenarios**

- A Planned Development Permit (PDP) for lot sizes, setbacks, building height, driveways, home types, sewer depth, parking, and loading zone deviations
- Site Development Permit (SDP) for Environmentally Sensitive Lands (ESL) deviations
- Rezone from RS-1-8 to RM-2-4, RX-1-1, and OC-1-1
- MHPA Boundary Line Adjustment
- Vesting Tentative Map (VTM)
- East Elliott Community Plan Amendment
- Public Right-of-Way and Utility Easement Vacations

- Certification of the FEIR, CEQA Findings, Notice of Determination (NOD) and MMRP
- East Elliott Public Facilities Financing Plan

#### **Annexation Scenario**

- Annexation Agreement
- Resolution of Support for Santee's Resolution of Initiation of Application to LAFCO to Take Proceedings (“Resolution of Support” or “Resolution of Initiation”)
- San Diego Sphere of Influence Revision
- San Diego General Plan Map Amendment
- Tax/Revenue Sharing Agreement Between Santee and San Diego (if not included in Annexation Agreement)

#### **No Annexation Scenario**

- Establishment of Public Facility Financing Mechanisms
- Potential Out-of-Service Agreement between San Diego and PDMWD
- Potential Out-of-Service Agreement between San Diego and Santee for fire, police, and emergency medical service
- Potential Out-of-Service Agreement between San Diego and other public agency

In addition, the City may use the FEIR to approve other discretionary actions. The FEIR may also be used by responsible and trustee agencies in connection with project-related approvals/conditions, including, without limitation, conformance to the National Pollutant Discharge Elimination System (NDPES) Construction General Permit (State Water Resources Control Board/Regional Water Quality Control Board [SWRCB/RWQCB]), and Municipal Storm Water Permit (RWQCB); a Federal Clean Water Act Section 404 Permit (U.S. Army Corps of Engineers) and Section 401 Water Quality Certification (RWQCB), if required; and a California Fish and Game Code Section 1602 Streambed Alteration Agreement (California Department of Fish and Game), Annexation Agreement, and LAFCO-related approvals if required.

#### **D. Statement of Objectives**

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

- Provide residential development that is consistent with the location and the goals and objectives of the adopted Community Plan.
- Meet San Diego’s General Plan and Community Plan goal of developing approximately 500 units in this location by providing approximately 430 units.
- Preserve over 94 acres of open space consistent with the adopted Multiple Species Conservation Program (MSCP)/MHPA and the Mission Trails Regional Park (MTRP).

- Provide a project design that is consistent with the goals and objectives of the Mission Trails Design Guidelines as follows:
  - a) New development should relate to existing development pattern and landscaping in adjacent areas.
  - b) New developments shall maintain contiguous public access immediately adjacent to the park edge or boundaries.
  - c) New developments immediately abutting the park should provide open space linkages, bike/pedestrian access to the park.
- Provide new residential development which is consistent with existing residential development patterns in the surrounding area.
- Implement some “smart growth” principles of development through the provision of up to 430 residences in a community within itself that links to natural areas that surround it and would be environmentally sensitive with many energy efficient features.
- Provide infrastructure improvements and street improvements consistent with the Community Plan in an efficient manner.
- Coordinate public facilities and infrastructure of various districts in the region.
- Provide housing types which can provide suitable "move up" housing for different segments of income levels of the population and that would help the region meet its housing goals.
- Provide trail connections from MTRP to the north of the project site, and recreational venues for hiking and bicycling for San Diego residents, Santee residents, and other members of the public.
- Reduce risk from wildfires by implementing a fire protection plan and brush management program, developing hardscape such as roads to reduce fire hazards to adjacent homes, and installing fire hydrants to aid in suppressing fires.
- Minimize traffic impacts on adjacent residential streets.
- Provide primary access to the site from a four-lane major roadway and regional access via the state highway system.
- Maximize tax revenues.
- Maximize construction and permanent job creation both directly and indirectly.

### **III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION**

A Notice of Preparation (NOP), prepared in compliance with Section 15082 of the CEQA Guidelines, was distributed for the project on June 7, 2004 and reissued on February 28, 2011. In addition, public scoping meetings were held on June 22, 2004 and March 14, 2011. The NOP, associated responses, and comments are included in the FEIR 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 June 18, 2012 and concluded on August 1, 2012. Distribution included the City of Santee and LAFCO. 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. 2004061029). 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*.

As noted above, the public comment period on the Draft EIR concluded on August 1, 2012. The City received comments on the proposed project. The City completed responses to those comments and the responses have been incorporated into the FEIR. The FEIR is intended as a project-level specific EIR.

On July 11, 2013, the City of San Diego Planning Commission (“Planning Commission”) held a public hearing on the project. The Planning Commission recommended approval of the project and certification of the FEIR, adoption of the MMRP, and approval of these Findings and the accompanying SOC’s. The City Council held a public hearing to consider the project and voted to certify the FEIR, approve these Findings of Fact and the accompanying SOC’s, adopt the MMRP, and approve the project.

#### **IV. GENERAL FINDINGS**

The City hereby finds as follows:

- The City is the “Lead Agency” for the proposed project evaluated in the FEIR.
- The Draft EIR and FEIR were prepared in compliance with CEQA and the CEQA Guidelines.
- The City has independently reviewed and analyzed the Draft EIR and FEIR, and these documents reflect the independent judgment of the City Council and the City.
- The City’s review of the Draft EIR and the FEIR 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 §21081 of CEQA, the City has based its decision on substantial evidence and complied with CEQA §§21081.5 and 21082.2 and CEQA Guidelines 15091(b).

- The impacts of the proposed project have been analyzed to the extent feasible at the time of certification of the FEIR.
- Pursuant to Public Resources Code 21151.4, at least 30 days prior to certification, the City provided consultation to Grossmont Union High School District regarding the project's treatment of hazardous substances which are within a quarter mile of a school site.
- Pursuant to SB 18, the City provided consultation opportunity with native American tribes.
- The City reviewed the comments received on the Draft EIR and FEIR 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 to the Draft EIR or FEIR. 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 FEIR.
- The responses to the comments on the Draft EIR, which are contained in the FEIR, 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 FEIR, 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 FEIR 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. More specifically, the documents and other materials which constitute the Administrative Record for the City's actions related to the project are located at the City of San Diego, Development Services Center, 1222 First Avenue, Fifth Floor, San Diego, CA 92101.
- 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

In identifying the following impacts that are less than significant without mitigation, the City has considered project design features, as well as the applicable plans, programs, regulations, and policies. The project design features are part of the proposed project that the City has considered, regardless of whether they are explicitly made conditions of project approval, and the City may assume that the project will be implemented consistent with the project description, project design features, and applicable plans, programs, regulations, and policies that the proposed project is subject to. The FEIR is divided into two possible scenarios, as described above. The FEIR concludes that under both scenarios the proposed project will have **no significant impacts and require no mitigation measures** with respect to the following issues:

- Air Quality/Odors (Pollutant Emissions - Operational Emissions, Sensitive Receptors, Particulate Matter, Air Quality Plan Implementation)

- Biological Resources (Wildlife Corridors)
- Cultural/Historical Resources (Religious/Sacred Uses, Human Remains)
- Energy Use and Conservation (Construction-Related Energy Use, Long-term Operational-Related Energy Use)
- Human Health/Public Safety/Hazardous Materials (Health Hazards-Wildfire, Hazardous Materials, Emergency Response/Evacuation)
- Hydrology/Water Quality (Hydrology, Water Quality)
- Geology and Soils (Unstable Soil and Geologic Hazards, Soil Erosion)
- Landform Alteration/Visual Quality/Neighborhood Character (Bulk and Scale, Light and Glare)
- Land Use (Plan Consistency, ESL Regulations)
- Noise (Ambient Noise Level Increase, Construction Noise)
- Transportation/Circulation (Traffic Hazards, Parking)
- Public Facilities and Services (Fire<sup>1</sup>), Police, Parks, and Schools)
- Utilities (Water Supply, Water Systems, Sewer Systems, Solid Waste)

Annexation Scenario: The FEIR concludes that under the Annexation Scenario implementation of the proposed project would **have no significant impacts and require no mitigation measures** with respect to the following additional issues:

- Biological Resources (Invasive Species)
- Noise (Stationary Noise)
- Public Facilities and Services (Libraries)

Under both scenarios, significant impacts associated with the following issues would be mitigated to below a level of significance. In some cases, the required mitigation measures differ under each scenario. The specifics of the mitigation measures are detailed below.

- Air Quality/Odors (Pollutant Emissions - Construction-Related Emissions)
- Biological Resources (Sensitive Biological Resources, Plan Consistency, Unexploded Ordnance)
- Cultural/Historical Resources (Prehistoric/Historic Resources)

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<sup>1</sup>The City finds that it is too speculative to analyze environmental impacts from construction of a fire station in the No Annexation Scenario because the location, size, and features for such a facility are unknown at this time. Accordingly, it is proper to conclude there is no significant impact. **Reference:** FEIR Section 4.13. Further CEQA review will be conducted if the fire services cannot be provided by other means identified in the FEIR.

- Human Health/Public Safety/Hazardous Materials (Unexploded Ordnance)
- Land Use (Environmental Plans)
- Noise (Noise Exposure)
- Paleontological Resources
- Transportation/Circulation (Traffic Circulation)

No Annexation Scenario: The FEIR concludes that under the No Annexation Scenario implementation of the proposed project could result in **significant impacts that would be mitigated to below a level of significance** with respect to the following additional issues:

- Biological Resources (Invasive Species)
- Noise (Stationary Noise)
- Public Facilities and Services (Libraries - Cumulative)

Under both scenarios, some impacts have associated mitigation measures identified in the FEIR that are infeasible to fully or partially implement for reasons including economic, legal, social, and other considerations. Accordingly, these impacts will remain fully or partially significant and unavoidable, despite the adoption of all feasible mitigation measures. The adoption of feasible mitigation measures will reduce the impacts, but the following issues would remain significant despite the adoption of all feasible mitigation measures:

- Landform Alteration/Visual Quality/Neighborhood Character (Landform Alteration, Public Views)
- Greenhouse Gas (GHG Emissions, GHG Plans Consistency<sup>2</sup>)

## VI. FINDINGS REGARDING SIGNIFICANT IMPACTS

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

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<sup>2</sup>GHG is only categorized as a significant and unmitigated impact if credit for the Low Carbon Fuel Standard program is not applied to the Project in a future circumstance where pending judicial review of the Low Carbon Fuel Standard program overturns and enjoins the program and the program is not replaced with a new Low Carbon Fuel Standard program.



The CEQA Guidelines state that an agency's findings must be "accompanied by a brief explanation of the rationale for each finding" 14 Cal Code Regs §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 Pub Res C §21081(a) and 14 Cal Code Regs §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. See *Mira Mar Mobile Community 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 FEIR or other documents identified in these findings are hereby incorporated by reference as if fully set forth herein. Additionally, every response to comment (RTC) in the FEIR relating to said citations to the FEIR are also hereby incorporated by reference as if fully set forth herein.

Organizationally, these Findings will address those significant effects and proposed mitigation measures that are the same under both scenarios. Thereafter, Findings specific to the Annexation Scenario will be addressed, followed by the Findings specific to the No Annexation Scenario.

**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 FEIR, and the Record of Proceedings pursuant to CEQA §21081(a)(1) and CEQA Guidelines §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 FEIR as described below:*

**AIR QUALITY/ODOR (POLLUTANT EMISSIONS - CONSTRUCTION-RELATED EMISSIONS)**

**ROG Emissions**

***Potentially Significant Effect***

Potentially significant construction related air quality impacts could result from the project's construction activities. Although grading operations would be regulated by the Air Pollution Control

District, Reactive Organic Gas (ROG) emissions could temporarily exceed applicable thresholds. This is due to the Volatile Organic Compound (VOC) content of the paints used during the architectural coating phase of construction.

### ***Facts in Support of Finding***

The potentially significant construction-related impact associated with ROG emissions would be mitigated to below a level of significance with implementation of the mitigation measure AIR-1 identified in Section 4.3.3.3 of the FEIR. Implementation of this mitigation measure requires use of exterior and interior coatings with a VOC content of 30 grams per liter or less.

### ***Rationale and Conclusion***

The mitigation measure identified as AIR-1 assures that ROG emissions remain below its applicable threshold throughout construction of the project. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.3.3

## **BIOLOGICAL RESOURCES (SENSITIVE BIOLOGICAL RESOURCES)**

### **Sensitive Vegetation Communities**

#### ***Potentially Significant Effect***

The project would result in impacts to the following sensitive habitat communities: emergent wetlands (wetland), southern willow scrub (wetland; No Annexation Scenario only), southern cottonwood willow riparian forest (wetland; No Annexation Scenario only), native grasslands (Tier I), coastal sage scrub (Tier II), and non-native grasslands (Tier IIIb). The amount of habitat impacted varies between the scenarios primarily due to the need for additional infrastructure for the No Annexation Scenario. The Annexation Scenario would impact 0.07 acre of wetland, 13.74 acres of Tier I, 32.13 acres of Tier II, and 49.32 acres of Tier IIIb on- and off-site. The No Annexation would impact 0.09 acre of wetland; 13.75 acre of Tier I, 33.42 acres of Tier II, and 48.35 acres of Tier IIIb on- and off-site. Due to utility improvements, the No Annexation Scenario would also temporarily impact 1.25 acre of Tier II habitat on-site and potentially have a temporary impact to 0.43 acre of wetland off-site. Both scenarios would also potentially impact up to additional 5 acres of Tier I and Tier IIIb habitat as a result of landslide remediation. Wetland impacts are addressed below under Jurisdictional Waters.

### ***Facts in Support of Finding***

The Annexation Scenario direct impacts to sensitive vegetative communities are mitigated to below a level of significance with implementation of the mitigation measures identified as BIO-1 through BIO-4 in Section 4.4.3.3 of the FEIR. No Annexation Scenario direct impacts to sensitive vegetation communities are mitigated via BIO-2 to 4 and BIO-13.

Implementation of BIO-1 for the Annexation Scenario or BIO-13 for the No Annexation Scenario requires sensitive vegetation mitigation at rates identified in the Land Development Code (LDC) Biology Guidelines. As the project proposes all mitigation within the Multi-Habitat Planning Area (MHPA), Annexation Scenario mitigation consists of a minimum dedication of 14.08 acres of Tier I, 32.13 acres of Tier II or better habitat, and 25.88 acres of Tier IIIB or better habitat (see Tables 4.4-4 and 4.4-5 of the FEIR, and BIO-1). The No Annexation Scenario mitigation will also occur in the MHPA, but consists of 14.10 acres of Tier I, 35.90 acres of Tier II, and 26.22 acres of Tier IIIB or better habitat (See Tables 4.4-9 and 4.4-10, and BIO-13). As a part of BIO-13, the temporary impacts to 1.25 acres of coastal sage scrub (Tier II) that occur under the No Annexation Scenario shall be mitigated through a restoration plan to achieve the identified performance criteria.

For both scenarios, implementation of BIO-2 is required after landslide remediation testing but prior to issuance of permits. Specifically, final landslide remediation plan is required to identify whether any additional impacts to sensitive vegetation communities occurred as a result of landslide remediation and provide details for habitat revegetation and remediation of those areas at a 1:1 ratio. Additional details of performance criteria and specifications more maintenance and monitoring of the remediated areas are found in Section 4.4.3.3 of the FEIR.

BIO-3 requires that grading plans include specific measures focused on the education of construction crews regarding the need to avoid impacts outside of the approved development area and to protect sensitive vegetation. A biological monitor is also required to be present during all construction activities to supervise the installation of work fences intended to protect biological resources and to prevent any new disturbances to sensitive biological resources. Any unforeseen impacts are required to be mitigated pursuant to the City's LDC and MSCP, and if appropriate, wildlife agencies. Prior to the release of the construction bond, a final monitoring report is required to be submitted to the City.

BIO-4 provides the mechanism details for the dedication and preservation of habitat listed above (BIO-1). This measure requires the conveyance of habitat to the City's MSCP preserve through specific means: Irrevocable Offer of Dedication via the Final Maps; Covenant of Easement recorded against the property's title; any other method of transfer permitted by the City's MSCP Subarea Plan or Implementing Agreement. Additional details of the conveyances means are found in Section 4.4.3.3 of the FEIR.

### ***Rationale and Conclusion***

Impacts to sensitive biological resources shall be mitigated via preservation of habitat at ratios indicated in the LDC Biological Guidelines (BIO-1 and BIO-13). A Conceptual Landslide Remediation Plan (see Appendix B-4), pursuant to BIO-2, has been prepared to address sensitive habitat impacts caused by potential landslide remediation. Mitigation land will be provided within the East Elliott area. The project includes an avoidance measures such as biological monitoring and a construction worker education program to ensure those areas outside the impact will be preserved (BIO-3). To ensure proper conveyance to the City and long term preservation of the mitigated land, specific means of conveyance are identified (BIO-4). Altogether, implementation of measures BIO-1 or BIO-13, and BIO-2 through BIO-4 assure that under the Annexation Scenario, impacts to

sensitive vegetation communities will be mitigated to below a level of significance. Implementation of these mitigation measures is assured through their incorporation into the project's MMRP.

**Reference:** FEIR Section 4.4.3

## **Sensitive Plant Species**

### ***Potentially Significant Effect***

Potentially significant impacts to sensitive plants could result from the project's grading activities under both the Annexation Scenario and No Annexation Scenario. Specifically, the project could disturb three sensitive plant species: San Diego barrel cactus, variegated dudleya, and San Diego goldenstar. Impacts to San Diego barrel cactus and San Diego goldenstar within the MSCP MHPA and impacts to variegated dudleya regardless of location are considered potentially significant. It is noted that the Annexation Scenario would result in impacts to 0.04 acre of San Diego goldenstar within the MHPA, 41 San Diego barrel cactus individuals in the MHPA and 1,000 square feet of variegated dudleya, while the No Annexation Scenario would impact 0.10 acre of San Diego goldenstar within the MHPA, 40 San Diego barrel cactus individuals in the MHPA and 1,000 square feet of variegated dudleya. Both scenarios would also potentially impact up to 5 acres of San Diego goldenstar through landslide remediation.

The No Annexation Scenario off-site improvements would potentially impact 0.03 acre of San Diego ambrosia critical habitat. This area of critical habitat is not currently occupied by San Diego ambrosia. The habitat would be potentially impacted through vegetation crushing and soil compaction.

### ***Facts in Support of Finding***

The potentially significant impacts to sensitive plants will be mitigated to below a level of significance with implementation of the mitigation measure identified as BIO-5 (Annexation Scenario) in Section 4.4.3.3b or BIO-14 (No Annexation Scenario) identified in Section 4.4.3.7b of the FEIR. This mitigation measure requires that prior to issuance of construction permits, a qualified biologist submit final translocation plans providing for the transplantation of San Diego goldenstar from area impacted by development within the MHPA to suitable areas within the MHPA; the relocation of 1,000 square feet of variegated dudleya within the impact area to suitable areas within the MHPA; and the relocation of San Diego barrel cacti individuals impacted in the MHPA to suitable areas within the MHPA. The landslide remediation may also impact San Diego goldenstar, which shall be mitigated through preservation due to the amount of potential impact. Additional requirements of the Translocation Plan include details for the site preparation, seed and plant collection, planting methods, maintenance and monitoring, and success criteria for each species. The specific performance criteria associated with each species is found in Section 4.4.3.3b and 4.4.3.7b of the FEIR.

Under the No Annexation Scenario, San Diego ambrosia critical habitat impacts shall be mitigated through implementation of a San Diego Ambrosia Critical Habitat Enhancement Plan (BIO-15). The

mitigation measure identifies performance criteria to ensure the area is open for the potential establishment of San Diego ambrosia. Refer to 4.4.3.7b of the FEIR for the entire measure.

### ***Rationale and Conclusion***

The project will fully mitigate sensitive plant impacts through translocation as provided in conceptual form as FEIR Appendixes B-3, B-4, B-7, and B-8. By removing the plants from the construction areas and relocated them within suitable areas with detailed performance criteria for long term maintenance and monitoring, the plants ongoing survival is protected. Landslide remediation impacts to San Diego goldenstar will be mitigated via the landslide remediation plan (FEIR Appendix B-4) to ensure the San Diego goldenstar will be adequately preserved in the MHPA. A draft San Diego ambrosia enhancement plan has been prepared pursuant to the performance criteria identified in the mitigation and is included in the FEIR as Appendix B-9. With the implementation of these plans, the Annexation Scenario sensitive plant impacts shall be reduced to below a level of significance. Implementation of these mitigation measures is assured through their incorporation into the project's MMRP.

**Reference:** FEIR Section 4.3.3

### **Sensitive Wildlife Species**

#### ***Potentially Significant Effect***

Potentially significant impacts to sensitive wildlife could result from the project's grading activities. Specifically, the project would remove habitat occupied by the coastal California gnatcatcher and San Diego fairy shrimp, and habitat used for raptor foraging. Additionally, construction activities could impact nesting birds, including raptors and the coastal California gnatcatcher. Improvements necessary to provide sewer and water service to the No Annexation Scenario would result in potential nesting and critical habitat impacts to least Bell's vireo and southwestern willow flycatcher.

#### ***Facts in Support of Finding***

The potentially significant Annexation Scenario impacts to sensitive wildlife shall be mitigated to below a level of significance with implementation of the mitigation measures identified as BIO-6 through BIO-10 in Section 4.4.3.3c of the FEIR, and habitat mitigation discussed above and in FEIR Section 4.4.3.3a. The No Annexation Scenario will require implementation of the measures BIO-6 to BIO-10 identified for the Annexation Scenario and, in addition, measures BIO-16 and BIO-17 identified in FEIR Section 4.4.3.7c and habitat mitigation identified in FEIR Section 4.4.3.7a.

BIO-6 requires either construction to occur outside of the migratory bird nesting season (February 15 to August 15) or for pre-construction nesting surveys and, as necessary, implementation of nest avoidance measures. Nest avoidance measures simply consist of no active migratory bird nest removal.

BIO-7 also requires either construction occur outside of February 15 to August 15 (the raptor breeding season) or for pre-construction nesting surveys and, as necessary, implementation of

raptor nest avoidance measures. If active raptor nests are present, no grading or removal of habitat shall take place within 300 feet of active nesting sites during the nesting season and no active raptor nest shall be removed.

BIO-8 for coastal California gnatcatcher similarly requires construction occur outside the coastal California gnatcatcher breeding season (March 1 and August 15) or U.S. Fish and Wildlife Service (USFWS) protocol pre-construction nest surveys and nest avoidance measures. For coastal California gnatcatcher avoidance measures, a qualified acoustician must complete a study showing that noise generated by construction activities will not exceed 60 dB(A) hourly average at the edge of occupied habitat prior to construction and prohibit take of active nests.

BIO-9 requires that prior to issuance of construction permits the applicant shall provide the City with a copy of any state or federal permit necessary for the take of San Diego fairy shrimp.

BIO-10 requires the completion of a San Diego Fairy Shrimp/Vernal Pool Restoration and Enhancement Plan and approval of the plan by the USFWS. Plan contents and performance criteria are found in Section 4.4.3.3c of the FEIR. The conceptual plan is included as Appendix B-5.

BIO-16 and BIO-17 shall be completed to mitigate impacts that occur under the No Annexation Scenario only. BIO-16 requires either construction to occur outside of the least Bell's vireo breeding season (March 15 to September 15) or pre-construction protocol survey and least Bell's vireo nest avoidance measures. BIO-17 requires either construction to occur outside of the southwestern willow flycatcher breeding season (May 1 to September 1) or pre-construction protocol survey and southwestern willow flycatcher nest avoidance measures. Southwestern willow flycatcher and least Bell's vireo nest avoidance measures each require a qualified acoustician to complete a study showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat prior to construction and prohibit take of active nests.

### ***Rationale and Conclusion***

Impacts to sensitive wildlife will be mitigated to below a level of significant by mitigation measures BIO-6 to BIO-10. Potential impacts occupied gnatcatcher habitat in the MHPA shall be mitigated through habitat mitigation as described in BIO-1 or BIO-13, depending on the scenario implemented. Additionally, the requirements for protocol and pre-construction surveys assure that sensitive nesting bird species are detected, identified and protected from construction noise. Impacts to San Diego fairy shrimp will be mitigated to below a level of significant through obtaining appropriate permits and the restoration of 1,260 square feet of vernal pools (BIO-9 and BIO-10). A Conceptual San Diego Fairy Shrimp/Vernal Pool Restoration and Enhancement Plan has been prepared and is included as Appendix B-5. This plan has been prepared by expert biologists and, as detailed in the plan, the San Diego fairy shrimp mitigation efforts are expected to achieve the performance criteria. The No Annexation Scenario shall implement least Bell's vireo and southwestern willow flycatcher avoidance mitigation (BIO-16 and BIO-17), which includes avoidance of the breeding season or nest avoidance measures. Overall, project impacts to

sensitive wildlife will be mitigated to below a level of significance. Implementation of these mitigation measures is assured through their incorporation into the project's MMRP.

**Reference:** FEIR Section 4.4.3

## **Jurisdictional Waters**

### ***Potentially Significant Effect***

Implementation of the project would result in disturbances to areas under the jurisdiction of the Resource Agencies. The Annexation Scenario impacts would include 0.47 acre of United States Army Corps of Engineers (USACE) and Regional Water Quality Control Board (RWQCB) jurisdiction (including 0.07 acre of wetlands) and 0.44 acre of California Department of Fish and Wildlife (CDFW) jurisdiction (including 0.04 acre of riparian vegetation). The No Annexation Scenario would have an additional impact to 0.02 acre of jurisdictional wetlands off-site and potential temporary impacts to 0.43 acre of CDFW and 0.30 acre of San Diego/USACE/RWQCB jurisdictional area. Impacts to these jurisdictional habitats would be potentially significant.

### ***Facts in Support of Finding***

The Annexation Scenario will implement mitigation BIO-11 and BIO-12 to mitigate impacts to jurisdictional habitats. BIO-11 requires the applicant to obtain USACE permit, CDFW Streambed Alteration Agreement and RWQCB Water Quality Certification, and to proceed in accordance with those permits. BIO-12 requires the preparation of a wetland mitigation plan, which shall provide a minimum of 0.07 acre wetland creation, 0.07 acre wetland preservation/enhancement, and 0.80 acre of jurisdictional drainage preservation. The mitigation shall obtain the performance criteria identified in the mitigation measure.

The No Annexation Scenario would implement mitigation BIO-18 and BIO-19 to mitigate impacts to jurisdictional habitats. BIO-18 requires the applicant to obtain USACE permit, CDFW Streambed Alteration Agreement and RWQCB Water Quality Certification, and to proceed in accordance with those permits. The measure indicates those permits require a minimum of 0.09 acre wetland creation, 0.09 acre of wetland preservation/enhancement, 0.80 acre of non-wetland preservation, and restoration of the temporary impact area to the existing conditions. The wetland creation and restoration activities shall be completed pursuant to the wetland mitigation plan and associated performance criteria required by BIO-19.

### ***Rationale and Conclusion***

The mitigation requires the applicant to obtain USACE permit, CDFW Streambed Alteration Agreement and RWQCB Water Quality Certification, and to proceed in accordance with those permits. The project will exceed the wetland and non-wetland waters/streambed impact mitigation requirements. Per San Diego's Biology Guidelines, emergent wetlands (assumed to fall into the freshwater marsh category) are required to be mitigated at a 2:1 ratio, with a 1:1 creation component. The project will create 0.37 acre of wetland, providing over a 3:1 mitigation ratio of

entirely creation. In addition, the project will preserve 0.93 acre of USACE/RWQCB/CDFW jurisdictional habitat, and 0.65 acre of San Diego wetlands which exceeds the preservation mitigation requirement. The No Annexation Scenario will also restore the off-site temporarily impacted jurisdictional area to the existing conditions or better. A conceptual wetland mitigation plan has been prepared and is included in Appendix B-6. This plan has been prepared by expert biologists and, as detailed in the plan, the wetland mitigation efforts are expected to achieve the performance criteria. Ultimately, mitigation would be provided in accordance with Resource Agency permit requirements and jurisdictional impacts will be mitigated to below a level of significance. Implementation of these mitigation measures is assured through their incorporation into the project's MMRP.

**Reference:** FEIR Section 4.4.3

## **BIOLOGICAL RESOURCES (INVASIVE PLANTS)**

### **San Diego Ambrosia Critical Habitat [No Annexation Scenario Only]**

#### ***Potentially Significant Effect***

As a result of off-site improvements, the No Annexation Scenario may temporarily impact 0.03 acre of San Diego ambrosia critical habitat. The impacted area is not currently occupied by San Diego ambrosia. Impacts would include vegetation crushing that could allow opportunity for invasive species to populate.

#### ***Facts in Support of Finding***

To avoid this potentially significant impact, the project will implement BIO-15 that requires enhancement of the impacted San Diego ambrosia critical habitat area to keep the area open for potential San Diego ambrosia establishment.

#### ***Rationale and Conclusion***

A draft San Diego ambrosia critical habitat enhancement plan (see FEIR Appendix B-9) has been prepared pursuant to the enhancement mitigation requirement. The proposed plan requires weeding to keep invasive species from establishing within the temporarily impacted area in accordance with the performance criteria. This will allow keep the habitat area open for the potential colonization by San Diego ambrosia and reduce the project impact to below a level of significance. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.4.5



## **BIOLOGICAL RESOURCES (PLAN CONSISTENCY)**

### **MHPA Habitat Value**

#### ***Potentially Significant Effect***

While the project would maintain the overall habitat preserve configuration and acreage, a minor amendment to the MHPA boundary line would be required to create a vernal pool preserve within the MHPA, allow the siting of a public park, and due to design requirements. As detailed in the MHPA equivalency analysis in the FEIR Section 4.4.6, the proposed Boundary Line Adjustment (BLA) would potentially result in a reduction of habitat value and covered species, but would maintain linkages and functions, configurations, ecotones, and other species populations. Overall, the project would reduce the amount of Tier II habitat and increase the Tier IIIb habitat. As discussed above under sensitive biological resources, the project would significantly impact coastal California gnatcatcher habitat, San Diego goldenstar, San Diego barrel cactus, and variegated dudleya located within the MHPA. Since the BLA under either scenario would potentially reduce the preserve value relative to the adopted MHPA, project impacts to the MHPA would be significant.

#### ***Facts in Support of Finding***

To ensure that the proposed BLA would result in a preserve that is functionally equivalent to the adopted MHPA, measures BIO-1 (Annexation Scenario) or BIO-13 (No Annexation Scenario), BIO-2, BIO-4, and BIO-5 (Annexation Scenario) or BIO-14 (No Annexation Scenario), and BIO-20 shall be implemented. As indicated above, the habitat mitigation will be provided in accordance with the LDC Biology Guidelines. Sensitive plant species shall be translocated to suitable areas within the MHPA and, if translocation is not feasible, mitigated at a ratio to ensure adequate preservation within the MHPA. To maintain the habitat value within the MHPA, the project shall complete non-native grassland restoration to native grassland (uptiering).

#### ***Rationale and Conclusion***

Implementation of mitigation measures BIO-1 (Annexation Scenario) or BIO-13 (No Annexation Scenario), BIO-2, BIO-4, and BIO-5 (Annexation Scenario) or BIO-14 (No Annexation Scenario), and BIO-20 will reduce impacts associated with the Annexation Scenario BLA to below a level of significant. As indicated above, the habitat mitigation ratios shall be provided in accordance with the LDC Biology Guidelines. The No Annexation Scenario will also complete the coastal sage scrub restoration plan and associated performance criteria for temporary impacts. Sensitive plant species populations within the MHPA will be maintained with the implementation of the project through the translocation and preservation mitigation. Translocation and preservation shall proceed in accordance with translocation plans (see Appendixes B-3, B-4, B-7, and B-8) and associated performance criteria. Implementation of these mitigation measures is assured through their incorporation into the project's MMRP.

A native grassland restoration plan (Appendix B-10) has been prepared to address the Annexation Scenario and No Annexation Scenario potential MHPA habitat value loss. As detailed in this plan, restoration of the non-native grassland on-site to native grassland will be achievable based on the site, proposed preparation, and proposed maintenance and monitoring. The site likely supported native perennial grasslands previously and the soils present are suitable for native grasslands. The native grassland restoration plan includes performance criteria, which includes the main criteria of achieving 90 percent cover relative to the reference sites in five years. The restoration will involve monitoring and maintenance to ensure success. With the implementation of the plan, the project (both Annexation Scenario and No Annexation Scenario) will result in increased habitat value relative to the existing MHPA, and the BLA impact will be reduced to below a level of significance. Implementation of this mitigation is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.4.6

### **Land Use Adjacency Guidelines**

#### ***Potentially Significant Effect***

The project has been designed to be consistent with the Land Use Adjacency Guidelines. However, without conditioning the project to be consistent with the Land Use Adjacency Guidelines contained in San Diego's MSCP Subarea Plan, the project could potentially result in significant indirect impacts to the MHPA.

#### ***Facts in Support of Finding***

Mitigation measure BIO-21 requires the project be conditioned to be consistent with the Land Use Adjacency Guidelines. This includes conditions related to drainage, toxics, lighting, noise, barriers, invasive plants, brush management for fire hazards, and grading/land development.

#### ***Rationale and Conclusion***

While the project would conform to the MSCP Subarea Plan Land Use Adjacency Guidelines, measure BIO-21 will ensure that the project would be consistent. Thus, the project will have no impact related to consistency with the MSCP Subarea Plan Land Use Adjacency Guidelines with the implementation of measure BIO-21. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.4.6

### **Draft Vernal Pool Management Plan**

#### ***Potentially Significant Effect***

Consistent with San Diego's draft Vernal Pool Management Plan (VPMP), both the Annexation and No Annexation Scenarios include management strategies to preserve the vernal pools on-site. As the San Diego VPMP is not final and may be updated prior to implementation of the project's

VPMP, there is potential for the project's VPMP to conflict with the final San Diego VPMP. This potential conflict would be significant.

### ***Facts in Support of Finding***

To prevent any potentially significant inconsistencies with any revisions made to the draft VPMP, BIO-22 requires the final project VPMP shall be reviewed for consistency with the final San Diego VPMP prior to implementation.

### ***Rationale and Conclusion***

While the project would conform with the San Diego draft VPMP, this measure will ensure that the project would be consistent with any made changes to the draft VPMP between the preparation of this document and project implementation. Thus, the project will be consistent with the San Diego and USFWS Planning Agreement, and the draft VPMP with the implementation of measure BIO-22. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.4.6

## **BIOLOGICAL RESOURCES (UNEXPLODED ORDNANCE)**

### **Sensitive Biological Resources**

#### ***Potentially Significant Effect***

Above-ground and subsurface ordnance clearance will be performed by the USACE within the project site as part of a geophysical investigation that will include mobile and advanced ground-based electromagnetic equipment that avoids brush removal. The investigation will be performed in phases, with the first phase to be conducted at the project site using both the EM-61 and "Metal Mapper" geophysical assessment systems.

The EM-61 system is the industry's standard technology for unexploded ordnance (UXO) geophysical investigations, and the "Metal Mapper" system is next-generation technology that will allow USACE to better differentiate between UXO from miscellaneous and harmless metal-containing debris. It is anticipated that the Metal Mapper technology will reduce the amount of investigatory "digs" needed to confirm the presence or absence of UXO based upon the geophysical data. Both the EM-61 and Metal Mapper systems will be used in combination at the project site. Once all physically accessible areas of the project site have been geophysically investigated, the USACE will evaluate the data, identify suspected UXO, remove any UXO, and continue its investigation in other areas of the East Elliott area outside the project site. The California Department of Toxic Substances Control (DTSC) is providing regulatory oversight to USACE's UXO investigation and with respect to related hazardous materials issues.

The USACE geophysical investigations could result in secondary effects to biological resources. The USACE investigation of the project site commenced on November 28, 2012, and

approximately 50 percent of the development footprint acreage has been surveyed by USACE through March 1, 2013, at which time the gnatcatcher breeding season required a seasonal discontinuance of the geophysical investigation until the breeding season concludes in the fall and the investigatory work can re-start in September 2013.

No surface or subsurface UXO has been found at the project site through March 2013; however, the extent and location of UXO, if any, remains unknown and therefore impact details are unknown until the completion of the investigation. Once USACE completes its geophysical investigation, it will prepare a Remedial Investigation/Feasibility Study and undertake the planning necessary to remove any UXO that may be located within the project site and/or outside the project site.

Potential impacts could occur to any sensitive habitats and species located on-site. The project site contains the following sensitive habitats: non-native grassland, native grassland, coastal sage scrub, coastal and valley freshwater marsh, emergent wetland, and vernal pools. UXO removal impacts could occur to San Diego barrel cactus, variegated dudleya, San Diego goldenstar, Robinson's peppergrass, San Diego fairy shrimp, coastal California gnatcatchers, nesting raptors and other nesting birds. UXO clearance impacts may also impact jurisdictional waters, although steps have been taken during the USACE investigation to avoid impacts to sensitive areas, plants and species.

### ***Facts in Support of Finding***

Mitigation BIO-23 requires a draft Removal Action Work Plan (RAWP) be prepared by a qualified contractor that identifies methods to minimize UXO clearance activity impacts to biological resources. USACE is preparing all required work plans and remediation studies. USACE's mitigation includes completing removal activities outside of the bird nesting season or completing nest surveys and, as appropriate, implementing nest avoidance measures. The measures also require completion of proposed biological restoration, creation, or translocation activities after site clearance. A USACE biologist has been present to identify sensitive biological resources so proper avoidance or mitigation in accordance with the LDC Biology Guidelines can be implemented.

### ***Rationale and Conclusion***

The measure BIO-23 provides sensitive biological resource avoidance measures and, as necessary, mitigation to reduce biological resource impacts from UXO clearance activities to below a level of significance. Due to the nature of UXO clearance, it is not possible to quantify impacts prior to clearance, if any clearance is required. The mitigation sets up UXO clearance requirements to avoid significant biological impacts and, if unavoidable, methods to mitigate impacts to below a level of significance. Implementation of these mitigation measures is assured through their incorporation into the project's MMRP.

**Reference:** FEIR Section 4.4.7

## **CULTURAL RESOURCES (PREHISTORIC/HISTORIC RESOURCES)**

### **Potential Unknown Subsurface Resources**

#### ***Potentially Significant Effect***

The site investigation and site record searches for the proposed project site indicate that there are five previously recorded prehistoric/archeological resources present on the site. Two of these sites were determined to not be cultural resource sites and two others were determined to be less than significant. The fifth site would be preserved in open space. Nonetheless, the FEIR acknowledges that grading or UXO clearance for the proposed project could result in significant impacts to currently unknown and buried prehistoric/archaeological resources on-site.

#### ***Facts in Support of Finding***

The proposed project's potentially significant prehistoric/archaeological impacts will be mitigated to below a level of significance with implementation of the mitigation measure CUL-1 identified in Section 4.5.3.3 of the FEIR. Implementation of this mitigation measure requires that, prior to any construction permits, the City must verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the appropriate construction plans. 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. Implementation of this mitigation measure requires the preparation of a monitoring plan and the presence of the Archaeological Monitor and Native American Monitor during grading/excavation/trenching activities that could result in impacts to archaeological resources as identified in the monitoring plan. Included in this mitigation measure is the requirement that the Archeological Monitor document field activity via the Consultant Site Visit Record (CSV). If a discovery is made, the monitors shall divert construction activities in the area of discovery and immediately notify the resident engineer and the principal investigator, who would notify the mitigation monitoring coordinator at the City. After following the identified protocol to determine significance, either a Archaeological Data Recovery Program (ADRP) shall be implemented for significant resources, or less than significant artifacts will be collected, curated, and documented in the Final Monitoring Report. While not anticipated to be located, human remain discovery requires that work stop in that area and the procedures as set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) are followed. The mitigation outlines final reporting requirements and, as necessary, curation requirements in accordance with the City's Historical Resources Guidelines. The Notice of Completion and/or release of the Performance Bond shall not be completed until a copy of the approved Final Monitoring Report (with Acceptance Verification from the curation institution as appropriate) is submitted to the City mitigation monitoring coordinator. Additional details of this mitigation measure are listed in Section 4.5.3.3 of the FEIR.

## ***Rationale and Conclusion***

These individual actions making up the mitigation measure CUL-1 identified in Section 4.5.3.3 of the FEIR assure the recording and recovery of important prehistoric/ archaeological information which may otherwise be lost during construction of the proposed project. The requirement for an archaeological monitor present for all grading activities, along with specified processes, assures that grading will be halted or diverted should any discovery be made. A determination of significance cannot be made at this time for buried prehistoric or archeological resources because the discovery of any such prehistoric or archeological resources has not occurred and will not occur, if at all, until such time as the project grading occurs. As discussed above, the site investigation indicates that there are no known significant prehistoric or archeological resources present within the impact area. In the event that a discovery of prehistoric or archeological resources occurs during grading for the proposed project, the determination of significance will be made consistent with City and State standards and the mitigation measures outlined in the FEIR will be implemented. Because the discovery of any buried prehistoric or archeological resources will not occur until the grading for project construction is underway, it is not feasible to pursue preservation in place as a mitigation measure in the event of the discovery of any such significant resources. These mitigation measures will reduce potentially significant impacts to archeological resources to a less than significant level. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.5.3

## **Preservation of Cultural Site in Open Space**

### ***Potentially Significant Effect***

Site CA-SDI-10054 is located within the proposed open space area in the City's MHPA. Per San Diego's Historical Resources Guidelines, ". . . indexing of the subsurface of the site is necessary to provide baseline information for the proper management of the preserved resource." Thus, without indexing, site CA-SDI-10054 would not be considered adequately preserved and potentially significant impacts could occur.

### ***Facts in Support of Finding***

CUL-2 requires CA-SDI-10054 shall be tested and indexed in accordance with the San Diego Historical Resource Guidelines. The indexing program shall include steps which shall be completed by a qualified archeologist prior to issuance of a grading permit, such as surface collection, site test pits, analysis of recovered materials, radiocarbon dating, and a final report in accordance with the San Diego Archaeological Resource Management Report format. Refer to FEIR Section 4.5.3.3 for the complete CUL-2 mitigation measure.

### ***Rationale and Conclusion***

Mitigation CUL-2 will provide sufficient information to establish a general finding with regard to the quantity, quality, and variety of the archaeological materials that are present at this location and allow for the placement of this resource into the developing model of site settlement and chronology for the East Elliott region. Thus, the potential impact to site CA-SDI-10054 will be reduced to below a level of significance with the implementation of CUL-2. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.5.3

## **HUMAN HEALTH/PUBLIC SAFETY/HAZARDOUS MATERIALS (UNEXPLODED ORDNANCE)**

### **Unexploded Ordnance**

#### ***Potentially Significant Effect***

The project site lies within the southeast corner of the former Camp Elliott, a 15,000-acre World War II-era Marine Corps training facility located east of MCAS Miramar that closed in the 1960s but included firing ranges and a tank training course. Shells and ordnance fragments have been found in several locations in East Elliott, generally outside of the project area but in the generally vicinity of the Sycamore Landfill and other known target areas. Due to the potential presence of above-ground or subsurface UXO at the project site, the project would result in a significant risk to health safety to workers, residents, or visitors.

#### ***Facts in Support of Finding***

Under the direction of the USACE, and in consultation with California DTSC, this UXO safety risk shall be remediated through proper removal actions. Mitigation measure HAZ-1 requires the preparation and implementation of a RAWP with a Health and Safety Plan by a qualified contractor to ensure proper handling of the removal of UXO. The RAWP performance criteria listed in the mitigation include the notification of nearby residences and school, use of a contractor with highly specialized and trained personnel, use of appropriate detection equipment, identification of located UXOs, securing the area and evacuation of non-essential personnel during UXO detonation, use of remote detonation, sandbags, water, and a containment system to reduce detonation impacts, and other requirements detailed in FEIR Section 4.6.6.3.

### ***Rationale and Conclusion***

Implementation of the mitigation measure HAZ-1 will ensure proper UXO removal in accordance with regulations to reduce safety risk impacts associated with UXO to a level that is less than significant. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.6.6

## **LAND USE (ENVIRONMENTAL PLANS)**

### **MSCP**

#### ***Potentially Significant Effect***

As discussed above under Biological Resources, the project would potentially impact MHPA biological resources in a manner that would conflict with the MSCP. The proposed BLA associated with the project would not result in a preserve that is functionally equivalent to the adopted MHPA, as there would be a potential overall loss of habitat value.

#### ***Facts in Support of Finding***

To mitigate the project MHPA BLA inconsistency with the MSCP, mitigation measure BIO-20 identified in FEIR Section 4.4.6.3 shall be implemented. This measure consists of the restoration of non-native grassland to native grassland to ensure the MHPA preserve with the proposed BLA is functionally equivalent to the existing MHPA.

#### ***Rationale and Conclusion***

With the implementation of biological resource mitigation BIO-20 (Section 4.4.6.3), the project will be consistent with the MSCP and the potential plan inconsistency impact will be reduced to below a level of significance. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.4.6

## **NOISE (NOISE EXPOSURE, STATIONARY SOURCE)**

### **Noise Exposure**

#### ***Potentially Significant Effect***

Due existing and future traffic, exterior noise levels at proposed residences along Mast Boulevard are projected to exceed San Diego's 65 Community Noise Equivalent Level (CNEL) compatibility threshold at proposed residences. This noise level would result in residential interior noise levels potentially exceeding San Diego's 45 CNEL interior noise threshold as well. These noise exposure impacts to proposed residences would be potentially significant.

#### ***Facts in Support of Finding***

The proposed project's potentially significant impacts associated with exposure to increased traffic noise will be mitigated to below a level of significance with implementation of the mitigation measures NOS-1 and NOS-2 identified in Section 4.10.4.3 of the FEIR. Mitigation measure NOS-1 shall require 3- to 4-foot-high noise barriers along the southern boundary (see FEIR Figure 4.10-3). This requirement shall be incorporated into the building plans prior to the issuance of building permits. Mitigation measure NOS-2 requires the preparation of a detailed acoustical analysis with



measures, such closed windows with ventilation or air conditioning provided, to ensure that proposed residences interior habitable room noise levels would be below the 45 CNEL standard.

### ***Rationale and Conclusion***

The mitigation measures identified in Section 4.10.4.3 of the FEIR assure that interior noise and exterior noise will be compatible with the proposed residential units. The requirement for an acoustical analysis prior to construction assures that steps are taken to confirm that interior noise levels are acceptable, or that steps are taken to reduce excessive noise levels. Noise walls ensure residential exterior usable space areas would be compatible with outdoor residential uses. Through this mitigation measure, potentially significant impacts associated with noise exposure will be reduced to less than significant. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.10.4

### **Stationary Source [No Annexation Only]**

#### ***Potentially Significant Effect***

The topography of the project site prevents gravity service directly to the City's interceptor. Therefore, under the No Annexation Scenario, a new private sewer lift station will be required at the corner of Street A and the emergency access road. The pump station will consist of a 28-foot-by-25-foot building of block wall construction housing two 25-horsepower pumps. Noise generated by the sewer lift station could result in potential noise impacts to future residents of the proposed project. Impacts from the sewer lift station would be considered potentially significant.

#### ***Facts in Support of Finding***

To mitigate the potential stationary noise impact from the sewer lift station to proposed residences, the project shall implement measure NOS-3. As detailed in Section 4.10.5.3b, this measure requires the lift station be designed with noise containment features to reduce noise levels to below 40 dB(A)  $L_{eq}$  at the property line per San Diego Municipal Code 59.5.0401. To ensure the lift station measures will achieve this performance criteria, the mitigation requires the preparation of an acoustical study prior to building permit issuance.

### ***Rationale and Conclusion***

Based on noise containment features at other sewer lift stations in the San Diego, there is substantial evidence to support that it is feasible to design noise containment systems for sewer lift stations that will achieve the 40 dB(A)  $L_{eq}$  performance standard. Implementation of mitigation measure NOS-3 will reduce impacts from the sewer lift station to a level below significant for the No Annexation Scenario. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.10.5

## **PALEONTOLOGICAL RESOURCES**

### **Potential Subsurface Paleontological Resources**

#### ***Potentially Significant Effect***

Because the site contains formations with high sensitivity potential for paleontological resources (e.g., Friars and Stadium Conglomerate Formations), project grading could potentially destroy fossil remains, resulting in a significant impact to paleontological resources.

#### ***Facts in Support of Finding***

The proposed project's potentially significant impacts to paleontological resources will be mitigated to below a level of significance with implementation of the mitigation measure identified in Section 4.11.3.3 of the FEIR. Implementation of this mitigation measure PAL-1 shall require, prior to the issuance of any construction permit the Assistant Deputy Director (ADD) of the environmental division to verify that the requirements for paleontological monitoring have been noted on the appropriate construction plans. Thereafter, letters of qualifications of all persons involved in the paleontological monitoring program must be submitted to the Mitigation Monitoring Coordinator. This mitigation measure requires that, prior to the start of construction, the following occurs: an updated 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 Principal Investigator is required to prepare a Paleontological Monitoring Exhibit (PME) based on the preceding information and provide a construction schedule to the Mitigation Monitoring Coordinator indicating when and where monitoring will occur.

The monitor will be required to be present full time during earthwork 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 FEIR including the Mitigation Monitoring Coordinator. The resource is required to be studied so a determination of significance can be made. If the resource is significant, the Principal Investigator is required to submit a Paleontological Recovery Program and obtain written approval from the Mitigation Monitoring Coordinator. The Principal Investigator shall submit a letter to the Mitigation Monitoring Coordinator 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 Mitigation Monitoring Coordinator. Additional details are included in the FEIR; however, it should be noted that the Principal Investigator 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***

These individual actions making up the mitigation measure identified in Section 4.11.3.3 of the FEIR 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. A determination of significance of buried paleontological resources cannot be made at this time because the discovery of any such paleontological resources has not occurred and will not occur, if at all, until such time as the project grading occurs. In the event that a discovery of paleontological resources occurs during grading for the proposed project, the determination of significance will be made consistent with City and State standards. Because the discovery of any paleontological resources will not occur until the grading for project construction is underway, it is not feasible to pursue preservation in place as a mitigation measure in the event of the discovery of any such significant resources. Through this mitigation measure potentially significant impacts to paleontological resources will be reduced to less than significant. Implementation of this mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 4.11.3

## **TRANSPORTATION/CIRCULATION (TRAFFIC CIRCULATION)**

### **Potentially Significant Effect**

Mast Boulevard, between the SR-52 northbound ramps and West Hills Parkway, would operate at unacceptable levels under existing, near-term and year 2030 conditions plus project conditions. Since the addition of project traffic would cause the volume to capacity ratio to increase over San Diego's threshold in all analysis scenarios, the project would have a significant direct and cumulative impact at this segment.

Mast Boulevard at West Hills Parkway (near-term), Mast Boulevard at West Hills High School (west access; all analysis scenarios), and Mission Gorge Road at Carlton Hills Boulevard (near-term and year 2030) intersections would operate at unacceptable LOS E or F. The addition of project traffic would cause traffic conditions to exceed San Diego's threshold at the Mast Boulevard at West Hills Parkway (near-term), and Mast Boulevard at West Hills High School (west access; all analysis scenarios). Thus, the project would have a significant direct/cumulative impact to Mast Boulevard at West Hills High School (west access) and a significant direct impact to Mast Boulevard at West Hills Parkway.

### ***Facts in Support of Finding***

For both scenarios, there is an expected capacity deficiency and significant (direct and cumulative) impact to the segment of Mast Boulevard between the SR-52 northbound ramps and West Hills

Parkway. Mitigation measure TRF-1 detailed in FEIR Section 4.12.3.3 will be implemented prior to issuance of occupancy permits to mitigate this potential impact and the direct intersection impact at Mast Boulevard and West Hills Parkway. This measure requires the widening of Mast Boulevard (eastbound) between the SR-52 northbound ramps and West Hills Parkway from four lanes to five, the provision of a raised median along this segment, and signal modifications at the Mast Boulevard and West Hills Parkway intersection to account for the new lane provided.

To mitigate the direct and cumulative traffic impacts at the intersection of Mast Boulevard and West Hills High School (West Access), TRF-2 shall be implemented. This measure requires a traffic signal at the West Hills High School (West Access) and Mast Boulevard intersection be installed prior to the issuance of building permits.

### ***Rationale and Conclusion***

Implementation of mitigation measure TRF-1 will increase capacity to 45,000 ADT and improve the LOS of Mast Boulevard between the SR-52 northbound ramps and West Hills Parkway to an acceptable LOS D under the existing plus project, near-term plus project and year 2030 plus project conditions. TRF-1 will also improve the Mast Boulevard at West Hills Parkway intersection to acceptable LOS C in the near-term plus project condition. Mitigation measure TRF-2 will improve LOS at the intersection of West Hills High School (West Access) and Mast Boulevard to an acceptable LOS A in the existing plus project condition, and acceptable LOS B in the near-term plus project and year 2030 plus project conditions. As such, all Annexation Scenario and No Annexation Scenario traffic impacts will be reduced to a less than significant level after mitigation. Implementation of these mitigation measures is assured through their incorporation into the project's MMRP.

**Reference:** FEIR Section 4.12.3

## **PUBLIC FACILITIES AND SERVICES (LIBRARIES - CUMULATIVE)**

### **Library – Cumulative [No Annexation Scenario Only]**

#### ***Potentially Significant Effect***

Due to the projects location on the edge of San Diego, the project would be primarily serviced through the Serra Cooperative Library System and the Bookmobile. In accordance with the San Diego Significance Thresholds (San Diego 2011), project applicants are required to make a fair share contribution to the cooperative's facilities.

#### ***Facts in Support of Finding***

SER-2 will require payment of an ad hoc fee in accordance with the San Diego Significance Determination Thresholds. This per residential building fee paid prior to building permit issuance would be established by the East Elliott Public Facilities Financing Plan (PFFP) or as an ad hoc fee and would ultimately go towards personnel and equipment associated with the Serra Cooperative Library System and the Bookmobile.

## ***Rationale and Conclusion***

With the implementation of SER-2, the project's impacts to library service systems will be less than cumulatively considerable. The payment of the ad hoc fee would finance the mobile library equipment and personnel needed to service the No Annexation Scenario. As such, the cumulative library impact will be reduced to below a level of significance. Implementation of the mitigation measure is assured through its incorporation into the project's MMRP.

**Reference:** FEIR Section 7.2.13

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

The City, having reviewed and considered the information contained in the Final EIR, finds pursuant to CEQA §21081(a)(2) and CEQA Guidelines §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 CEQA Guidelines §15091(a)(3))**

The City, having reviewed and considered the information contained in the FEIR and the Record of Proceedings, and pursuant to Public Resource Code §21081(a)(3) and State CEQA Guidelines §15091(a)(3), makes the following findings regarding Landform Alteration/Visual Quality/Neighborhood Character (Landform Alteration, Public Views) and Greenhouse Gas (GHG Emissions, GHG Plans Consistency) :

- (3) 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 FEIR (Project No. 146803/SCH No. 2008061058) as described below:**

While all feasible 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.

#### **LANDFORM ALTERATION/VISUAL QUALITY/ NEIGHBORHOOD CHARACTER (LANDFORM ALTERATION)**

##### ***Potentially Significant Effect***

Both the Annexation and No Annexation Scenarios would encroach into 15 percent of the steep slope acreage on-site, which exceeds the encroachment allowance, as no encroachment into steep slopes would be permitted under the ESL. Thus, supplemental findings must be made in support of the ESL deviation. In addition, both the Annexation Scenario and the No Annexation Scenario

would result in the construction of a retaining wall that exceed the 6-foot height and 50-foot length significance criteria. As such, under San Diego thresholds, there would be a significant impact associated with landform alteration.

The No Annexation Scenario would result in additional landform impacts over the Annexation Scenario due to the construction of a 1.76-million-gallon reservoir and the additional manufactured slope needed to accommodate the proposed water and sewer lines.

### ***Facts in Support of Finding***

The proposed project incorporates methods of reducing the impact, such as setbacks. To further reduce the visual landform alteration impacts of the project, mitigation measure VIS-1 will be implemented. This measure requires contour grading of manufactured slopes to be shown on the grading plans prior to issuance of a grading permit. This measure also requires landscaping techniques using plant material of varying heights in conformance with San Diego's Landscape Regulations and Manual to create an undulated slope appearance. These measures will reduce the visual impact of the proposed grading and retaining walls.

### ***Rationale and Conclusion***

Even with the design features incorporated in the proposed project and implementation of VIS-1, development in this location will require substantial landform alteration and impacts will remain significant and unmitigated. There is no feasible method to further reduce grading to avoid ESL slopes or eliminate the proposed retaining wall. As the proposed retaining wall will be in excess of San Diego's threshold (over 6 feet tall and 50 feet long) with the implementation of mitigation, this landform alteration impact would remain significant.

**Reference:** FEIR Section 4.2.3

## **LANDFORM ALTERATION/VISUAL QUALITY/NEIGHBORHOOD CHARACTER (PUBLIC VIEWS)**

### ***Potentially Significant Effect***

While Mast Boulevard is not a designated scenic view corridor, it is considered a public viewing area that provides views of open space hillsides, which are significant visual resources per the General Plan and Community Plan. Both the Annexation and No Annexation Scenarios' residential units and landscaping would block the majority of the view of this open space from Mast Boulevard. Considering the scale of the view blockage, in accordance with San Diego's Significance Determination Thresholds, the proposed project view blockage impacts would be significant.

### ***Facts in Support of Finding***

The proposed project incorporates methods of reducing the impact of the proposed structures to public views, such as landscaping and setbacks. However, due to the landform, development will

remain visible and will impact views of open space from Mast Boulevard. No feasible mitigation is available to avoid the significant view impacts of development at this site.

### ***Rationale and Conclusion***

Even with the design features incorporated in the proposed project, development in this location will be visible from public views and would block public views of open space. Due to the lower elevation of the Mast Boulevard roadway relative to the development pads, reduction of building height and use of lower profile landscaping will not significantly reduce the open space view blockage impact. The No Annexation Scenario and several project alternatives will reduce the view blockage through a reduction of homes along Mast Boulevard; however, this impact will remain significant. Scenic value along Mast Boulevard will be significantly reduced through the implementation of the project. Thus, project impacts will remain significant and unmitigated.

**Reference:** FEIR Section 4.2.4

### **GREENHOUSE GAS (GHG EMISSIONS)**

#### ***Potentially Significant Effect***

The GHG-reducing design features and adopted regulations for the Annexation and No Annexation Scenarios equate to a 30.2 percent reduction in BAU emissions and therefore meet San Diego's interim threshold of 28.3 percent reduction relative to BAU so long as the state is able to implement the LCFS program. The City is mindful that the project would only achieve a 25.6 percent reduction in BAU emissions without reliance on the state's implementation of the LCFS program, which is currently under judicial review by the 9th Circuit Court of Appeals. In the circumstance where the 9th Circuit determines that the current LCFS program does not comply with the law, the project would not meet San Diego's 28.3 percent reduction relative to BAU, the project would not meet the City's interim threshold, and the impacts would be significant. It would be an inefficient use of limited City resources to reevaluate the EIR if the LCFS program were enjoined because the analysis of such a circumstance can be performed now. Accordingly, in order to save limited City resources and fully disclose information about the City's justifications for its determinations, the City is making the conservative assumption that the LCFS program is not in effect and has categorized the project's GHG impacts as significant and unmitigated pending the outcome of the 9th Circuit review of the LCFS program. The City finds that there are several social and other considerations that make it infeasible to adopt further GHG-reducing measures, and, therefore, for the reasons identified herein and in the Statement of Overriding Considerations, the City finds the significant unmitigated impacts acceptable.

#### ***Facts in Support of Finding***

As identified in the EIR, the proposed project incorporates methods of reducing GHG emissions through project design features which would result in increased energy and water use efficiencies that exceed the standards in Title 24 of the Building Code and the California Green Builder Program. The project is 35 percent more energy efficient than BAU and 20 percent more water

efficient than BAU. It is 20 percent more energy efficient than 2008 Title 24 and 25 percent more energy efficient than 2005 Title 24. It may be technically feasible to increase the project's GHG reductions further, through even more enhanced green building design including, but not limited to, installation of on-site renewable energy, water-reuse/grey water systems for irrigation, operational waste recycling programs, advanced glazing and insulation materials use, and use of alternate HVAC systems, however, there are several social and other considerations that make these additional measures infeasible including the following:

1. Exacting additional GHG reductions through additional enhanced green building design would conflict with City Council Policy 600-27 and City Council Policy 900-14. Through these policies, the City has already determined that only new or renovated City-owned, occupied, or leased buildings are subject to enhanced green building design requirements such as LEED Silver certification, consuming energy 15 percent below Title 24 requirements, on-site generation of at least 15 percent of its energy consumption from renewable energy sources, 20 percent less water, and other green building features identified in City Council Policy 900-14. City Council Policy 600-27 offers a voluntary incentive for an applicant to meet these same enhanced green building design levels in exchange for expedited permit processing. Here, the applicant elected not to enroll in the expedited permit processing program and did not receive the benefit of expedited permit processing. Accordingly, it would conflict with these City policies for City to impose enhanced green building design features on the applicant in an effort to further mitigate GHG emissions. ([http://docs.sandiego.gov/councilpolicies/cpd\\_600-27.pdf](http://docs.sandiego.gov/councilpolicies/cpd_600-27.pdf); [http://docs.sandiego.gov/councilpolicies/cpd\\_900-14.pdf](http://docs.sandiego.gov/councilpolicies/cpd_900-14.pdf))
2. Exacting additional GHG reduction through additional enhanced green building design would conflict with General Plan Conservation Element Policy CE-A.5 that seek to "Develop and implement sustainable building standards for new and significant remodels of residential and commercial buildings to maximize energy efficiency, and to achieve overall net zero energy consumption by 2020 for new residential buildings and 2030 for new commercial buildings." The techniques for achieving the net zero energy policy in the Policy CE-A.5 are the same as the enhanced green building design. However, this project is proposed for approval seven years in advance of the 2020 deadline for achieving net zero energy policy. Accordingly, it would conflict with Policy CE-A.5 to require the applicant to install enhanced green building design features in an effort to achieve net zero energy in advance of 2020 to further mitigate GHG emissions.
3. Another consideration that justifies the infeasibility finding is General Plan Policy CE-A.1, which states that the City should "influence state and federal efforts to reduce greenhouse gas emissions so that implementation requirements are equitably applied throughout the state, and to address actions that are beyond the jurisdiction of the local government." As noted on page CE-7 of the General Plan, more than half the region's GHG emissions come from vehicle emissions. Local governments control vehicle emissions through locating development near transit centers and existing higher density developed areas. Through the proposed project, the City is controlling vehicle emissions by clustering the residential



development planned for East Elliott Community Planning Area into the project site near existing development in Santee and a bus route. However, the City cannot control the carbon levels in vehicle fuel or force auto manufacturers to construct more fuel efficient vehicles. Such programs are within the exclusive power and control of the state and federal government. It would be inconsistent with General Plan Policy CE-A.1 to impose enhanced green building design features on the applicant due to the potential inability of the state to run its Low Carbon Fuel Standard program. That would inequitably shift the GHG reduction burden from the state to the local government and the applicant. Statewide, the transportation sector/vehicle emissions are the largest contributor to GHG levels at 38 percent while commercial and residential buildings combined account for only 9 percent. (CARB Scoping Plan at p. 11 (2008); [http://www.arb.ca.gov/cc/scopingplan/document/adopted\\_scoping\\_plan.pdf](http://www.arb.ca.gov/cc/scopingplan/document/adopted_scoping_plan.pdf)). It would also be a poor use of resources to shift the burden to the local government and the applicant because the state has the ability to reform the Low Carbon Fuel Standard to overcome the legal obstacles that are the subject of the 9th Circuit Court of Appeals case by weighting the carbon content of in-state and out-of-state fuels the same. Accordingly, if the 9th Circuit were to overturn the LCFS program, there is little reason to believe the state would not reform the program to continue to achieve the GHG reduction benefits that come from low carbon fuels.

4. Another consideration is that City does not have an “adopted” GHG threshold, but is using an “interim” approach based on CARB’s 2008 Scoping Plan that is the basis for the 28.3 percent BAU GHG threshold. That threshold was established at a time when the state projected higher economic growth. In 2011, CARB revised the Scoping Plan to account for lower projected GHG-emissions from lower projected economic growth in the State. (2011 Scoping Plan, Attachment D Final Supplement to AB 32 Scoping Plan Functional Equivalent Document, pp. 10-11, and 20.) Therefore, while the City’s GHG interim significance threshold remains 28.3 percent, among the considerations the City is permitted to make in determining whether additional mitigation is feasible for projects such as Castlerock that come close to the 28.3 percent threshold, despite implementing several substantial GHG-reducing energy efficiency and water conservation measures, is that the City’s 28.3 percent BAU interim threshold may be conservatively high because it does not take into account the state’s reduced economic growth projections. The project has complied with the interim guidelines by performing the required GHG analysis in the interim. The City further notes that when it comes to establishing significance thresholds, the City Significance Determination Thresholds guidelines affirms that “They are not intended to be stand alone policies and are to be used in conjunction with commonly accepted professional standards, judgments, and practices. These guidelines should be updated when necessary in response to changes in CEQA, case law, and refinement of recognized scientific analysis of impact thresholds. The City of San Diego has been using these thresholds since 1991 and has provided regular updates. Section 15064.7 of the CEQA Guidelines encourages public agencies to develop and publish such analytical tools. These thresholds include information on 19 environmental issues as listed in, and to be used in conjunction with, the Initial Study Checklist. They provide technical guidance in evaluating the potential significance of a project’s environmental impact and provide a consistent and objective basis for determining

the level of impacts. They also recognize that the level of impacts depend upon a multitude of factors such as project setting, design, construction, etc. The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the agency involved, based to the extent possible on scientific and factual data. An ironclad definition of a significant impact is not possible because the significance of an activity may vary with the setting. For example, an activity which is not significant in an urban area may be significant in a rural area (CEQA Guidelines Section 15064).” The same judgment the City exercises in establishing whether the context of the project calls for a different significance conclusion than the City’s published significance standards is the judgment the City exercises when deciding whether it is good policy to require additional mitigation from project that come close to meeting such standards and fall short only due to litigation against the state’s Low Carbon Fuel Standard and use of an overly conservative 2008 Scoping Plan.

5. Another consideration is that an agency may also decline to adopt a mitigation measure that will not provide substantial additional mitigation beyond the measures that it does adopt. *Citizens for Open Gov’t V. City of Lodi* (2012) 205 Cal. App. 4th 296, 323; *San Franciscans for Reasonable Growth v. City & County of San Francisco* (1989) 209 Cal. App. 3d 1502, 1519. In addition, mitigation is provided where it “substantially lessens”, not just “avoids” a significant environmental effect. (Pub. Res. Code section 21002; 14 C.C.R. section 15091(a)(1).) An agency may find that it does not need to take further steps to mitigate an impact where mitigation measures substantially lessen the significant impact. Here, mitigation is provided at 25.6 percent BAU (assuming the LCFS program is not implemented), which is 2.7 percent short of the City’s conservative 28.3 percent BAU threshold. Accordingly, the City finds mitigation that “substantially lessens” the project’s GHG impacts has been provided.

### ***Rationale and Conclusion***

The project includes significant GHG-reducing features. As previously indicated in these findings, with the implementation of the LCFS program, the project’s GHG impacts are below a level of significance. However, the project would not meet the City’s conservative threshold without application of the LCFS. Given the uncertainty related to the legal status of the LCFS, in order to conserve City resources, should the LCFS program be overturned by the courts, the City has categorized the impact as significant and unmitigated. The City further finds that while it may be technically and economically possible to increase the project’s GHG reductions further, through more enhanced green building design including, but not limited to installation of on-site renewable energy, water-reuse/grey water systems for irrigation, operational waste recycling programs, advanced glazing and insulation materials use, use of alternate HVAC systems, and such, due to social and other considerations described above, these measures are not feasible. Therefore, in a circumstance were the LCFS program is overturned, as evaluated against the San Diego 28.3 percent BAU reduction goal, Project impacts would remain significant and unmitigated.

**Reference:** FEIR Section 4.9

## **GREENHOUSE GAS (GHG PLAN CONSISTENCY)**

### ***Potentially Significant Effect***

In a circumstance where the LCFS program is determined not to comply with the law, as evaluated per San Diego's current interim GHG guidelines (i.e., the 28.3 percent reduction relative to BAU threshold), neither the Annexation Scenario nor No Annexation Scenario would achieve the target reduction in the absence of credit for the LCFS which is mired in legally uncertainty. Therefore, in such a circumstance, while the project is consistent with many of the General Plan Greenhouse Gas policies and some of those policies make further GHG reduction infeasible, the project would not be consistent with the goals and strategies set forth in San Diego current interim GHG guidelines aimed at reducing GHG emissions from land use and development.

### ***Facts in Support of Finding***

The project would participate in the CALGreen program and includes features to reduce greenhouse gas emissions consistent with many of the City's applicable plans and policies. These features are incorporated into the project. With the inclusion of these features, the project would meet San Diego and state GHG reduction levels but would not meet San Diego's GHG reduction threshold of significance in the absence of applying credit for implementation of the LCFS program. Providing mitigation beyond those features would not be feasible due to the reasons stated in the Facts Supporting Infeasibility Finding Greenhouse Gas (GHG Emissions). Thus, in a circumstance where the LCFS program is determined not to comply with the law, the project's inconsistency with the San Diego interim threshold would cause the project's consistency with the City's GHG reduction plan to remain significant and unmitigated.

### ***Rationale and Conclusion***

The project would be conditioned to include GHG-reducing features. However, even with these features, the project would not meet the City's threshold without application of credit for implementation of the LCFS program. Given the uncertainty related to the legal status of the LCFS, the City has taken a conservative approach and categorized the project's consistency with the City's GHG reduction plans significant and unmitigated. While it may be economically and technically possible to increase the project's GHG reductions further, through more enhanced green building design such as installation of on-site renewable energy, water-reuse/grey water systems for irrigation, operational waste recycling programs, advanced glazing and insulation materials use, use of alternate HVAC systems, and such, they are infeasible for the reasons stated in the Facts Supporting Infeasibility Finding Greenhouse Gas (GHG Emissions). Therefore, in a circumstance where the LCFS Program is overturned, as evaluated against the San Diego interim thresholds 28.3 percent BAU reduction standard, the project's consistency with the City's GHG reduction plan remains significant and unmitigated.

**Reference:** FEIR Section 4.9

#### **D. Findings Regarding Alternatives Considered and Rejected**

Pursuant to CEQA Guidelines §15126.6, the range of potential alternative 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 the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

Alternatives considered but rejected include the No Mast Boulevard Traffic Impact Alternative, No Traffic Impact Alternative, and Alternate Location Alternative. The No Mast Boulevard Traffic Impact Alternative would require a reduction of units to 68 to eliminate the project impact at Mast Boulevard. The No Traffic Impact Alternative would reduce units further to 20 to 30 units to avoid all project traffic impacts. The No Mast Boulevard Traffic Impact Alternative and No Traffic Impact Alternative would not meet the majority of the main project goals and were therefore rejected. The Alternative Location Alternative was dismissed because no other site(s) under the applicant's ownership in the East Elliott area would be able to provide a development that would meet the majority of the project objectives. The sites under the applicant's ownership are located within the MHPA, have limited development potential and development on those parcels would likely result in increased environmental compared to the proposed project. Other sites not under the ownership of the applicant would not be reasonably acquired and, therefore, would not be feasible alternatives. Also, no other residentially zoned land exists in the East Elliott area.

#### **E. Findings Regarding Alternatives Considered In EIR**

The FEIR examined four alternatives: No Project (No Development) Alternative; Reduced Grading Alternative; Densification Alternative; and Wetland Avoidance 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. The project includes many basic objectives identified above in section II. D. of these Findings and all the alternatives analyzed (except the CEQA-required No Project Alternative) meet most of the basic objectives, but the City finds the following six objectives to be the most important:

1. Provide residential development that is consistent with the location and the goals and objectives of the adopted Community Plan, San Diego's General Plan, Mission Trails

Design Guidelines, and MSCP. This includes providing approximately 500 residential units with necessary infrastructure and MTRP access and open space consistent with the MSCP.

2. Provide new residential development which is consistent with existing residential development patterns in the surrounding area.
3. Implement “smart growth” principles through the provision of new housing in a location in proximity to existing infrastructure and services.
4. Provide a variety of housing types which can provide suitable housing for different segments of income levels of the population and that would help San Diego and the region meet its housing goals.
5. Provide primary access to the site from a four-lane major roadway and regional access via the state highway system. Avoid traffic impacts on adjacent residential streets.
6. Maximize tax revenues and job creation.

### **Social Infeasibility/Other Considerations**

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. Resources 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.” (CEQA Guidelines § 15364; *emphasis added*.)

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 *California 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”). See also *Cherry Valley Pass Acres and Neighbors v. City of*

*Beaumont Sunny Cal Egg Poultry Company* (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 *Association 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 *Sequoyah 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 CEQA Guidelines, this criterion is applicable when there is evidence that social and/or other issues render alternatives infeasible. Specifically, for the proposed project social and other infeasibility can include, but are not limited to, the following conditions: (a) the alternatives conflict with General Plan, East Elliott Community Plan (EECP), and/or other related land use plan and design goals and policies; (b) the alternatives conflict with stated project goals and objectives; and (c) the alternatives cannot be implemented within a reasonable period of time.

### **Finding for All Alternatives**

The City, having reviewed and considered the information contained in the FEIR and the Record of Proceedings, and pursuant to Public Resource Code §21081(a)(3) and State CEQA Guidelines §15091(a)(3), hereby 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 project alternatives identified in the FEIR as described below. More, specifically, based upon the administrative record for the project, the City makes the following findings concerning the alternatives to the proposed project:

### **NO PROJECT (NO DEVELOPMENT) ALTERNATIVE**

#### ***Summary Description of Alternative***

The No Project (No Development) Alternative addresses the situation that would occur if the proposed project did not go forward and the project site remained in its existing condition.

#### ***Rationale for Selecting this Alternative for Analysis***

This alternative was selected for analysis because it allows decision makers to compare the impacts of approving the project with the impacts of not approving the project and is required to be analyzed and considered pursuant to CEQA Guidelines Section 15126.6(e)(3)(B).

## ***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, except impacts to biology from continued off-road vehicle trespass. However, this alternative would not meet the basic or the most important project objectives or provide the same level of land use benefits as the proposed project. Therefore, the grounds for infeasibility is that it conflicts with the City's social and other considerations.

## ***Facts in Support of Finding***

While adoption of the No Project (No Development) Alternative would avoid the proposed project's significant impacts, the majority of the project objectives would not be attained. Specifically, it would not provide a residential development consistent with the applicable land use plans and adjacent area, provide a variety of housing types to meet housing goals, accomplish the smart-growth principles through the provision of pedestrian-friendly access between residential units and open space areas, or maximize tax revenues and job creation. No site access would be provided under this alternative. Since this alternative would not meet most of the project objectives, the No Project (No Development) Alternative would be considered infeasible.

**Reference:** FEIR Section 9.2

## **REDUCED GRADING ALTERNATIVE**

### ***Summary Description of Alternative***

The Reduced Grading Alternative would avoid encroachment into steep slopes on the project site, which would substantially reduce the development footprint. The Reduced Grading Alternative would reduce the number of dwelling units from a maximum of 430 to approximately 200 units (a 54 percent reduction). All of the units under this alternative would be detached single-family homes on single-family lots. Because providing direct project access via Mast Boulevard would require grading of steep slopes, this alternative would provide access through the City of Santee via Moana Kia Lane from Medina Drive. The design changes associated with the Reduced Grading Alternative include: (1) avoidance of steep slopes; (2) reduction in the number of single-family units to 200 units; (3) single-family units along Mast Boulevard in place of green court; (4) elimination of dedicated parkland; and (5) access via Moana Kia Lane in Santee.

### ***Rationale for Selecting this Alternative for Analysis***

This alternative was selected for analysis because some comments received following the Notice of Preparation indicated concerns regarding the project's direct access to Mast Boulevard, and the project's compliance with the City of San Diego's ordinances protecting hillsides and the MHPA. Some commenters supported no development or reduced density development. As the no project alternative already analyzed the no development alternative, the reduced grading alternative provided a means to allow decision makers to compare the impacts of approving the project with the impacts of approving a reduced density project.

## ***Potentially Significant Effects and Ground for Infeasibility***

Due to its substantially reduced footprint, greater open space preservation, reduced grading requirements and fewer number of dwelling units, this alternative would result in a reduction in impacts as compared to the project in regard to the following issues: land use, landform alteration/visual quality; air quality; biological resources; cultural resources; health, safety and hazardous materials; hydrology and water quality; geology and soils; greenhouse gas emissions; noise; paleontological resources; transportation/circulation; and public facilities and services. The Reduced Grading Alternative would not, however, avoid the project's significant, unmitigable impacts associated with visual quality or greenhouse gases. Upon further analysis, it was determined that this alternative would meet most of the basic project objectives, it would not meet some of the project objectives the City considers most important. Therefore, the grounds for infeasibility are that it conflicts with the City's social and other considerations.

## ***Facts in Support of Finding***

The Reduced Grading Alternative would only partially meet important objective 1 through the provision of some housing in the location identified in the Community Plan and provide access to the MTRP open space consistent, however the number of units provided by this alternative would be much lower than (i.e., less than half) the number specified by the Community Plan. The Reduced Grading Alternative would achieve important objective 2 through the provision of low-density, single-family housing, similar to the surrounding land use patterns. The important objective 3, which calls for the implementation of "smart growth" principles, would be partially met because the Reduced Grading Alternative would provide bike and pedestrian access to the open space areas promoting a pedestrian-friendly environment, but overall it would not meet important objective 3 because with only 200 single-family units, the Reduced Grading Alternative does not provide the density or variety of housing and uses typically associated with "smart growth." Likewise, this alternative would not meet important objective 4 (a variety of housing types), or important objective 5 (primary access from a 4-lane major roadway). Because this project would access the general system of streets through the City of Santee via Moana Kia Lane from Medina Drive, it would not meet the important project objective of minimizing traffic impacts on adjacent residential streets. Important objective 6 calling for maximization of tax revenue would not be meet because the property tax revenues from 200 single family homes would be less than the tax revenues created by constructing the proposed project's approximately 422 to 430 units. Important objective 6 calling for maximization of jobs would not be meet because the direct and indirect jobs created from 200 single-family homes would be less than the jobs created by constructing the proposed project's approximately 422 to 430 units.

The Reduced Grading Alternative would meet the objective of coordinating public facilities and infrastructure of various districts in the region. It would also meet the objective of reducing the risk of wildfires by implementing a brush management program. In summary, this alternative was proper to study because it met many of the project objectives, however, this alternative would only fully meet one objective and partially meet two objectives that are most important to the City, while not meeting three objectives that are most important to the City. Accordingly, as the project



alternative would not fully meet most of the most important project objectives, this alternative is considered infeasible.

**Reference:** FEIR Section 9.3

## **DENSIFICATION ALTERNATIVE**

### ***Summary Description of Alternative***

This alternative reduces landform alteration while maintaining the number of units proposed under the project. The Densification Alternative would account for 400 units (a 7 percent reduction) over 85 acres (a 22 percent reduction). The housing mix proposed under this alternative would consist of 210 multi-family and 190 single-family residential dwelling units. Because providing direct project access via Mast Boulevard would require grading of steep slopes; this alternative would require the provision of access via the City of Santee (Moana Kia Lane). The design changes associated with this alternative include: (1) conversion of the small-lot green court development area at Mast Boulevard to 210 multi-family homes; (2) reduction in the number of single-family units to 190; (3) avoidance of steep slopes; (4) a public park would be provided in the northern portion of the site; and (5) access would be provided from Santee, via Moana Kia Lane.

### ***Rationale for Selecting this Alternative for Analysis***

This alternative was selected for analysis because some comments received following the Notice of Preparation indicated concerns regarding the project's direct access to Mast Boulevard, and the project's compliance with the City of San Diego's ordinances protecting hillsides and the MHPA. As the no project alternative already analyzed the no development alternative and the reduced grading alternative analyzed a reduced density alternative, this densification alternative provides a means to allow decision makers to compare the impacts of approving the project with the impacts of approving a slightly smaller, but more dense project on a smaller development footprint.

### ***Potentially Significant Effects and Grounds for Infeasibility***

The Densification Alternative would reduce the landform alteration impacts by reducing grading, but may increase visual quality impacts associated with views and bulk and scale, due to the addition of multi-family dwelling units. By reducing the development footprint and required grading, preserving more undisturbed open space, and slightly reducing the number of dwelling units, impacts would be reduced as compared to the project in regard to the following issues: land use, visual quality (landform alteration); air quality; biological resources; cultural resources; health, safety and hazardous materials; hydrology and water quality; geology and soils; greenhouse gas emissions; noise; paleontological resources; transportation/circulation; and public facilities and services. Significant and unmitigated project impacts to visual quality (landform alteration and views) and greenhouse gases would also be significant and unmitigated under this alternative. Due to the inclusion of multi-family homes and increased density, this alternative would increase impacts related to views, bulk and scale, and conformity with development patterns in the area. Upon further analysis, it was determined this although this alternative would meet most of the basic

project objectives, it would not meet some of the project objectives the City considers most important. In addition, it would increase other environmental impacts. Therefore, the grounds for infeasibility are that it conflicts with the City's social and other considerations.

### ***Facts in Support of Finding***

The Densification Alternative would meet most of the basic project objectives. The Densification Alternative would meet the objective of coordinating public facilities and infrastructure of various districts in the region. It would also meet the objective of reducing the risk of wildfires by implementing a brush management program. With 400 units (20 percent below the maximum allowed in the Community Plan), the project would meet the goal of developing approximately 500 units allowed in the Community Plan. This alternative would provide residential units near infrastructure and services consistent with the applicable land use plans (important objectives 1 and 3). While this alternative would provide a variety of housing types consistent with important objective 4, the provision of dense multi-family units would not be consistent with residential development patterns in the surrounding area (important objective 2). Important objectives 5 (primary access from a four-lane major roadway and avoiding traffic impacts on adjacent residential streets) would also not be met because this project would access the general system of streets through the City of Santee via Moana Kia Lane from Medina Drive thus impacting adjacent residential streets. Important objective 6 calling for maximization of tax revenue would not be met because the property tax revenues from 400 units would be less than the tax revenues created by constructing the proposed project's approximately 422 to 430 units. Important objective 6 calling for maximization of jobs would not be met because the direct and indirect jobs created from 400 units would be less than the jobs created by constructing the proposed project's approximately 422 to 430 units. While this alternative would meet most of the basic project objectives, it may increase visual quality impacts without substantially reducing significant project impacts and only meets half of the objectives the City considers most important. For these reasons, this alternative was considered infeasible.

**Reference:** FEIR Section 9.4

## **WETLAND AVOIDANCE ALTERNATIVE**

### ***Summary Description of Alternative***

The Wetland Avoidance Alternative would reduce the amount of graded acreage from approximately 108 acres under the project to 90 acres and the number of dwelling units from a maximum of 430 to approximately 265 single-family units (a 38 percent reduction). Under the proposed project, approximately 0.07 acre of jurisdictional wetlands and 0.40 acre of non-wetland waters/streambed would be impacted on-site. The Wetland Avoidance Alternative would avoid these jurisdictional impacts by reducing grading and incorporating bridges. Project site access would be provided by a right in/out driveway on Mast Boulevard as well as a connection to the existing residential area just east of the project site via Grass Valley Lane.

### ***Rationale for Selecting this Alternative for Analysis***

This alternative was selected for analysis because some comments received following the Notice of Preparation indicated concerns regarding the project's compliance with the City of San Diego's ordinances protecting wetland and drainages and pursuant to wetland permitting requirements. As the no project alternative already analyzed the no development alternative, the reduced grading alternative analyzed a reduced density alternative, and the densification alternative analyzed more dense project on a smaller footprint, this Wetlands Avoidance Alternative provides a means to allow decision makers to compare the impacts of approving the project with the impacts of approving a project with no impact on jurisdictional wetland resources.

### ***Potentially Significant Effects and Grounds for Infeasibility***

Due to its substantially reduced footprint, greater open space preservation, reduced grading requirements and fewer number of dwelling units, this alternative would result in a reduction in impacts as compared to the project in regard to the following issues: land use, landform alteration/visual quality; air quality; biological resources; cultural resources; health, safety and hazardous materials; hydrology and water quality; geology and soils; greenhouse gas emissions; noise; paleontological resources; transportation/circulation; and public facilities and services. The Wetland Avoidance Alternative would not, however, avoid the project's significant, unmitigable impacts associated with visual quality and greenhouse gases. Upon further analysis, it was determined that although this alternative would meet most of the basic project objectives, it would not meet some of the project objectives the City considers most important. Therefore, the grounds for infeasibility are that it conflicts with the City's social and other considerations.

### ***Facts in Support of Finding***

The Wetland Avoidance Alternative would meet most of the basic project objectives. The Wetlands Avoidance Alternative would meet the objective of coordinating public facilities and infrastructure of various districts in the region. It would also meet the objective of reducing the risk of wildfires by implementing a brush management program. The Wetlands Avoidance Alternative would partially meet important objective 1 through the provision of some housing in the location identified in the Community Plan and provide access to the MTRP open space consistent, however the number of units provided by this alternative would be much lower than (i.e., a little more than half) the maximum number specified by the Community Plan so it does not contain the density or variety typical of a "smart growth" community. Since this alternative would provide just a little more than half the units called for, this alternative only partially meets important objectives 1 and 3. The provision of single-family homes would be consistent with the surrounding development (important objective 2). This alternative would not provide a variety of housing types (important objective 4). Important objective 5 (primary access from a four-lane major roadway and avoiding traffic impacts on adjacent residential streets) would also not be met because this project would access the general system of streets through the City of Santee via Grass Valley Lane thus impacting adjacent residential streets. Project site access would also be provided by a right in/out driveway on Mast Boulevard, but this is not primary access from a four-lane major roadway.

Important objective 6 calling for maximization of tax revenue would not be met because the property tax revenues from 265 units would be less than the tax revenues created by constructing the proposed project's approximately 422 to 430 units. Important objective 6 calling for maximization of jobs would not be met because the direct and indirect jobs created from 265 units would be less than the jobs created by constructing the proposed project's approximately 422 to 430 units. While this alternative would meet most of the basic project objectives, it only meets one of the objectives the City considers most important and partially meets two of the objectives the City considers most important, while not meeting three of the objectives the City considers most important. For these reasons, this alternative was considered infeasible. It is noted that this alternative would substantially increase costs by including several bridges while reducing revenue due to decreased units, and may not be financially feasible. However, the grounds for infeasibility are based upon social and other considerations, not economic infeasibility.

**Reference:** FEIR Section 9.5

## **VII. STATEMENT OF OVERRIDING CONSIDERATIONS**

Pursuant to CEQA 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.

Pursuant to Public Resources Code Section 21081(b) and Guidelines Section 15093, the City has balanced the benefits of the proposed project against unavoidable adverse impacts to visual resources associated with the project and has adopted all feasible mitigation measures with respect to these significant and unavoidable impacts, and that no additional feasible mitigation is available to further reduce significant impacts.

The City also has examined alternatives to the proposed project, which are rejected based on the fact that they would not meet some or all of the identified project objectives, would not avoid or substantially reduce certain project-related environmental impacts, and/or would potentially result in significant impacts in addition to those associated with the project.

Courts have upheld overriding considerations that were based on a variety of policy considerations including, but not limited to new jobs, stronger tax base, and implementation of an agency's

economic development goals, growth management policies, redevelopment plans, the need for housing and employment, conformity to community plan, and provision of construction jobs. See *Towards Responsibility in Planning v. City Council* (1988) 200 Cal App. 3d 671; *Dusek v. Redevelopment Agency* (1985) 173 Cal App. 3d 1029; *City of Poway v. City of San Diego* (1984) 155 Cal App. 3d 1037; *Markley v. City Council* (1982) 131 Cal App. 3d 656.

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 and justifies the project's approval, so that if a court were to set aside the determination that any particular benefit(s) will occur, the City Council hereby determines that it would stand by its determination that the remaining benefits are sufficient to warrant the project's approval.

The City, after balancing the specific economic, legal, social, technological, and other benefits of the proposed project, has determined and expressly finds that the unavoidable adverse environmental impacts to landform alteration/visual quality/neighborhood character (landform alteration, public views) are considered "acceptable" due to the following specific considerations which outweigh the unavoidable adverse environmental impacts of the proposed project:

**A. Regional Economic Prosperity**

- The project will include revitalization of an underutilized property to ensure future economic vibrancy. The resulting project will function as an integrated community with a single aesthetic concept and participate in the Green Builders Program consistent with smart growth concepts.
- The project will help implement the policies of the Economic Prosperity Element of the City's General Plan by providing workforce housing accessible to employment areas and a high-quality, convenient lifestyle necessary to attract skilled employees.
- By building on a site designated for development and retaining open space consistent with the MSCP, the project adds needed housing while preserving other lands for open space.
- The proposed project will create a substantial number of jobs, providing all levels of construction employment opportunities. Other jobs related to maintenance of the proposed homes and infrastructure would also be generated. The total construction cost for the project is estimated at \$156,089,453 million, which will benefit the local economy through increased employment opportunities in construction and related industries. Specifically, it is estimated that approximately 648 "development specific" jobs would be created in the construction trades (DPF&G<sup>3</sup> 2013).

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<sup>3</sup>DPF&G's calculations were based on 430 homes. The No Annexation Scenario's 422 homes would generate slightly smaller construction costs and jobs.

- In addition to the 648 construction jobs, the project is estimated to create 2 new public safety jobs, 8 new teaching jobs, 5 new ancillary jobs (i.e. home maintenance-related jobs), and 544 jobs from workforce growth from new residents for a total of 559 jobs (DPF&G4 2013).
- Through the creation of these new jobs, the project will increase the tax base in the City. In addition, the project's work force growth jobs create new opportunities for local business to provide goods and services including, but not limited to, food and beverage, retail, parking, marketing and advertising.

**B. Biological Benefits**

- In the existing condition, the vernal pools and upland areas are at risk of damage because third parties trespass the land for off-roading and other purposes. The project would add the vernal pools to the MHPA and preserve approximately 95 acres within the MHPA, where it would be subject to the protections of a conservation easement restricting such uses. The City of San Diego would receive the open space land without having to pay fair market rates to purchase ownership of the lands. In addition, Pardee will provide a funding mechanism to manage the vernal pool lands and preserve them in perpetuity.
- The proposed MHPA boundary line adjustment would ultimately improve the habitat value in the MHPA.

**C. Recreational Benefits**

- The proposed project will construct a multi-use pathways further connecting the community to Mission Trails Regional Park. This trail would accommodate bicyclist, pedestrian, and equestrian uses, and include a trail head.
- The proposed project will provide a 4-acre public park (3 acres usable) and up to 0.64 acre (up to 0.49 acre usable) of pocket parks.

**D. Housing Benefits**

- To provide a variety of housing options consistent with the surrounding area and the City's General Plan Housing Element, the project provides single-family homes on single lots and single-family homes on shared lots.
- The project will provide increased housing adjacent an already urbanized area with bus routes and employment opportunities, thus integrating and coordinating transportation and land uses. It also integrates the residential project with the open space trail system promoting a pedestrian friendly community. This benefits the City because it assists in the

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<sup>4</sup>DPF&G's calculations were based on 430 homes. The No Annexation Scenario's 422 homes would generate slightly smaller construction costs and jobs.

implementation of the General Plan City of Villages strategy and regional smart growth principles.

**E. Social Benefits/Implementation of Applicable Planning Goals, Policies and Objectives**

- The proposed project will construct a multi-use trail along the southern and eastern project boundary providing safe non-vehicular access to and through the site.
- The project includes a public park on-site. The park would be available to future residents of the development as well as other existing residents in the area.
- The project design and components will guide physical development toward a desired image that is consistent with the social, economic and aesthetic values of the City through its consistency with the following guiding principles, goals, and policies of the City's General Plan and East Elliott Community Plan:
  - A. Provides residential, park, open space, and recreation uses as designated in the Land Use Element.
  - B. Provides a variety of several housing types to promote Land Use Element's goal of providing balanced neighborhoods.
  - C. Provides interior streets, improvements to Mast Boulevard, sidewalks, and a multi-use trail that connects to a larger trail system and is located near a bus route to promote the Mobility Element's goal of a balanced, multi-modal transportation network.
  - D. Provides single-family and green court residential units adjacent to existing residential development in Santee on its east side and approximately 95 acres of conserved open space adjacent to partially unconserved open space on its west side along with landscaping and brush management plans that use native plant species all to promote the Urban Design Element goal of integrating new development with the natural landscape and within the framework of an existing community.
  - E. To be consistent with the Economic Prosperity Element, the project provides housing to support the workforce for the area employment centers, provide construction job opportunities, and does not displace land set aside for an employment use.
  - F. To be consistent with the Public Facilities, Services, and Safety Element, the project provides resources and/or constructs facilities necessary to provide for school/educational, library, water, sewer, solid and flood control services. The project features incorporate a Fire Protection Plan to enhance safety features of project in this fire hazard zone.
  - G. To be consistent with the Recreational Element, the project provides 4.0 gross acres of public parks, 0.64 gross acre of pocket parks with a public recreational use easement, approximately 95 acres of open space land, and a multi-purpose trail system. The open space contribution would protect areas that are not currently protected and are subject to off-roading activities by trespassers. This extensive acreage contribution

(approximately 46 percent of the project site) with its trail system improvements provides significant regional recreational resource which is determined to be the functional equivalent of contribution to a regional recreation and aquatics center. Additionally, the public recreational use easement over the pocket parks provides the functional equivalent of a larger public park space as residents and members of the general public can exercise and traverse through its landscaped pathways and recreate on the pocket park lawns.

- H. To be consistent with the various Conservation Element goals, the project implements energy efficiency and water conservation measures through the California Green Builder program and compliance with green building codes. In the Annexation Scenario, it utilizes reclaimed water to irrigate project landscaping. It also implements a waste management plan and complies with state and federal air quality standards. Additionally, it implements storm water best management practices and revegetates graded areas to control runoff, sedimentation, and erosion both during and after construction to protect water quality. It dedicates approximately 46 percent of the project site for newly protected open space and limits impacts to slopes through contour grading, retaining walls, and revegetation techniques.
  - I. To be consistent with the Noise Element, the project does not generate significant noise levels and construction noise would comply with the City's Noise Abatement Ordinance. The project also protects future residents from noise levels on Mast Boulevard through construction of residences with noise attenuation features.
  - J. To be consistent with the Historic Preservation Element, the project performed a surface survey that concluded none of the historic sites within the development footprint are significant, indexes the historic site within open space, and the project will further protect potential subsurface cultural and paleontological resources during project grading through approved mitigation measures.
  - K. To be consistent with the Housing Element, the project adds between 422 and 430 residential units to the area's housing stock using a variety of single family homes and single-family shared lots green court units.
  - L. A clean and sustainable environment.
  - M. A high aesthetic standard.
- The project design and components will implement the following goals and policies of the East Elliott Community Plan.
    - A. Providing for the orderly development of East Elliott;
    - B. To assure standard public facilities and services commensurate with the proposed project, as well as development of the planning area;
    - C. To provide approximately the maximum 500 residential units (only 14-16 percent less) called for in the community plan;



- D. To provide development that is sensitive and similar in scale to adjacent development in Santee in terms of the type, lot size and density of development;
  - E. To provide development with architectural styles consistent with the Mission Trails Regional Park and Mission Trails Design District architectural criteria; and
  - F. To fulfill the open space management guidelines.
- The project also will be consistent with other applicable land use plans, including the Multiple Species Conservation Plan, Airport Land Use Compatibility Plan, San Diego Municipal Code zoning, regulations pertaining to Environmentally Sensitive Lands (with approved deviations), and the Mission Trails Design District.

**F. Sustainability Benefits**

- The project will be located on a site designated for residential development near services, public transit, and existing development.
- The proposed project will include several sustainable building features consistent with the voluntary Sustainable Development goals contained in the General Plan's Conservation Element. Additionally, the project includes green features consistent with the Green Builders Program.
- The project will assist in implementing recommendations of the Mission Trails Design Guidelines.

**G. Maximize Efficient Use of the Project Site**

- The project optimizes the use of the site, which possesses characteristics ideal for locating a residential facility. These characteristics include, but are not limited to a vacant site immediately adjacent to existing residential development with relatively low biological value compared to other parts of East Elliott making it a suitable place to cluster development and to assist the East Elliott Community Planning Area in making a contribution to the City's housing and affordable housing inventory.

**H. Annexation Agreement Benefits**

- The Annexation Agreement benefits that run to San Diego include applicant's payment of inclusionary housing fees to San Diego despite detachment of the project from the City of San Diego's jurisdiction, the dedication of approximately 95 acres of open space for San Diego's use in meeting acreage goals of the MSCP, and the allocation of regional housing credits for San Diego's use in meeting its regional housing allocation quotas.

## **VIII. CONCLUSION**

For the foregoing reasons, the City concludes that the proposed project will result in numerous public benefits beyond those required to mitigate project impacts, each of which individually is sufficient to outweigh the unavoidable environmental impacts of the proposed project. Therefore, the City has adopted these Findings and SOCs.