

Attachment "A"
Final Environmental Impact Report

PC Resolution No. 2019-08 – Exhibit “B”

Weston Subdivision Project

CEQA FINDINGS OF FACT

(SCH #2017121068)

THIS PAGE IS INTENTIONALLY BLANK.

CEQA FINDINGS OF FACT

Weston Subdivision Project
Case No.: 15-222 TMDB/DR/CDP
State Clearinghouse (SCH) No. 2017121068

Lead Agency:

City of Encinitas
Contact: Scott Vurbef, Environmental Project Manager
505 South Vulcan Avenue
Encinitas, California 92024

Preparer:

Michael Baker International
Contact: Bob Stark, AICP
5050 Avenida Encinas, Suite 260
Carlsbad, CA 92008

December 2018

THIS PAGE IS INTENTIONALLY BLANK.

TABLE OF CONTENTS

I. INTRODUCTION.....1

A. Record of Proceedings.....3

B. Custodian and Location of Records2

II. PROJECT SUMMARY3

A. Project Location3

B. Project Description.....3

C. Proposed Land Use.....3

D. General Plan Land Use and Zoning7

E. Discretionary Actions7

F. Statement of Objectives7

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION8

IV. FINDINGS REQUIRED UNDER CEQA9

V. MITIGATION MONITORING AND REPORTING PROGRAM10

VI. FINDINGS REGARDING SIGNIFICANT IMPACTS.....11

A. Impacts Mitigated to Less than Significant Levels11

THIS PAGE IS INTENTIONALLY BLANK.

I. INTRODUCTION

The California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000, et seq.) and the 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. Specifically, regarding findings, CEQA Guidelines Section 15091 provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:*
- 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final Environmental Impact Report (EIR);*
 - 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*
 - 3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.*
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.*
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.*
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.*
- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.*
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.*

The "changes or alterations" referred to in Section 15091(a)(1) above, that are required in, or incorporated into, the project which mitigate or avoid the significant environmental effects of the

project, may include a wide variety of measures or actions as set forth in CEQA Guidelines Section 15370, including:

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

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

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

The following Findings of Fact (Findings) are the findings that are required to be made by the decision-making body prior to carrying out or approving the proposed project.

Having received, reviewed, and certified the Final EIR for the Weston Subdivision Project (the project), State Clearinghouse No. 2017121068, as well as all other information in the Record of Proceedings (as defined below) on this matter, the following Findings are hereby adopted by the City of Encinitas (City) in its capacity as the CEQA Lead Agency. These Findings set forth the environmental basis for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the project.

A. Record of Proceedings

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project includes but is not limited to the following documents and other evidence:

- The Notice of Preparation (NOP) and all other public notices issued by the City in conjunction with the proposed project;
- Written comments received on the NOP;
- Scoping Meeting(s) and written comments received at Scoping Meeting(s);
- The 2018 Draft Environmental Impact Report and appendices for the proposed project;
- All written comments submitted by agencies or members of the public the Draft EIR and Final EIR;
- All responses prepared by the City to written comments submitted by agencies or members of the public on the Draft EIR and Final EIR;
- All written and verbal public testimony presented during a noticed public hearing for the proposed project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program (MMRP);
- The reports and technical memoranda included or referenced in the responses to public comments;
- All documents, studies, EIRs, or other materials incorporated by reference or cited to in the Draft EIR and the Final EIR;
- The Final EIR and all supplemental documents prepared for the Final EIR and submitted to the City of Encinitas Planning Commission prior to the Planning Commission hearing;
- Matters of common knowledge to the City, including but not limited to federal, state, and local laws, ordinances, plans and regulations;
- Any documents expressly cited in these Findings;
- City staff report(s) prepared for the hearing(s) related to the proposed project and any exhibits thereto;
- Project permit conditions; and
- Any other relevant materials required to be in the record of proceedings by CEQA pursuant to Public Resources Code section 21167.6(e).

The Draft EIR and related technical studies were made available for review during the public review period on the City's website at <http://www.encinitasca.gov/I-Want-To/Public-Notices/Planning-Building-Public-Notices> (under "Environmental Notices") and at the following public locations:

City of Encinitas Development Services Department
505 S. Vulcan Avenue
Encinitas, CA 92024

Encinitas Branch Library
540 Cornish Drive
Encinitas, CA 92024

B. Custodian and Location of Records

The documents and other materials, which constitute the administrative record for the City's actions related to the project, as detailed in Section I.A. above, are located at the City Development Services Department, 505 S. Vulcan Avenue, Encinitas, California 92024. The City Clerk is the custodian of the administrative record for the project. Copies of these documents, which constitute the Record of Proceedings, are at all relevant and required times have been and will be available upon request at the offices of the City's Development Services Department. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).

II. PROJECT SUMMARY

A. Project Location

The project site lies within the community of Leucadia, located within the boundaries of the City of Encinitas ("City"), within central-coastal San Diego County, California. The jurisdictions that surround the City include the City of Carlsbad to the north, the City of Solana Beach to the south, and the unincorporated area of Rancho Santa Fe to the east. The Pacific Ocean forms the City's western boundary.

Regional access to the project corridor is via Interstate 5 (I-5) to westbound La Costa Avenue and North Coast Highway 101 to eastbound La Costa Avenue. The property is located approximately 175 feet west of I-5 on the bluffs overlooking Batiquitos Lagoon (located just to the north of the site). The Pacific Ocean lies approximately 0.6 mile to the west. La Costa Avenue forms the southern boundary of the subject property. The City of Carlsbad borders the site along a portion of the eastern property boundary and the entire northern property boundary. North Coast Highway 101, which runs north-south through Encinitas, intersects with La Costa Avenue approximately 0.4 mile to the west of the project site.

B. Project Description

The project would allow for 46 new single-family residential units and two existing single-family residences on the approximately 13.9-acre site. Additionally, private recreational amenities, open space for resource protection, and utilities and public services improvements are proposed. These uses are summarized in Table 1, Land Use Summary.

TABLE 1 LAND USE SUMMARY

Use	Acres/Lot Numbers
Residential Uses	
48 single-family residential dwelling units (DUs) (includes two existing DUs, 42 market-rate DUs and 4 "very-low" affordable level DUs)	0.11 (minimum) to 1.3 (maximum) / Lots 1–48
Other Uses	
Private Recreation Area/Bioretenention Basin	0.28 (Lot 50) / 0.59 (Lot 51)
Private Streets	1.02 / Lot 49
Total	13.9 (gross acres) / Lots 1–51

C. Proposed Land Use

Residential Uses

The project would accommodate future development of 46 new single-family residences with a minimum lot size of 0.11 acre; maximum proposed lot size is 1.3 acres. Average lot size would be approximately 0.26 acre. The project would comprise 42 market-rate single-family residential dwelling units (DUs) and 4 "very low" affordable single-family residential DUs. Homes would range from one to two stories in height. The development of the future homes would be subject to issuance of a future

Design Review Permit, which is not being proposed as part of the development application for the project.

The proposed project is for the subdivision of the property into a 48-lot residential subdivision, including affordable housing utilizing the State of California's Density Bonus law (Govt. Code 65915). Without the density bonus, and with consideration for existing on-site conditions (e.g., steep slope restrictions), 28 single-family residential DUs would be allowed on the subject property.

Two occupied existing single-family residences (at 510 and 514 La Costa Avenue), originally constructed in approximately 1930 and 1958, respectively, are present in the northeastern portion of the property. No physical improvements to these residences are proposed with the project and they will remain in their current state following project implementation (proposed Lots 14 and 32).

Passive Open Space

Lot 50 (approximately 12,185 square feet, or 0.28 acre) is proposed to support a private bioretention basin which may be used for passive recreation. Lot 51 (approximately 25,543 square feet, or 0.59 acre) is proposed to support a private bioretention basin that may also be used for passive recreation. The community's homeowners association (HOA) would be responsible for the long-term maintenance of these facilities.

Open Space

Steep slopes (greater than 25 percent) are present onsite within the northeastern property boundary and off-site largely beyond the northwestern property boundary. Development is not proposed along these slopes, although minor encroachment into the (manufactured) slope in the northwestern portion of the site (near Lot 12) is required for project development. Slopes along the northeastern portion of the site would be protected for the long term via a proposed open space easement to be maintained by the Homeowners Association.

The Batiquitos Lagoon lies just north of the property boundary. The Batiquitos Lagoon preserve, identified in the City of Carlsbad's Habitat Management Plan, is located within a 100-foot wetland buffer extending from the wetland areas of the lagoon. The project would maintain a 100-foot wetland buffer within a proposed open space easement in compliance with Policy 10.6 of the City's General Plan Resource Management Element.

Access and Circulation

Access to the site would be provided at approximately the existing access point along La Costa Avenue to line up with Seabreeze Court on the south side of La Costa. Minor improvements would be made to the entry drive to provide two lanes (one in/one out; overall width of 25 feet). Interior circulation is proposed via a two-lane, 25-foot-wide roadway system that would terminate in two cul-de-sacs in the northern portion of the site. This roadway system would provide direct access to private driveways for each of the proposed residential lots. All private roadway designs would be subject to approval by the City of Encinitas.

Vehicular access to the two existing residences would be via a proposed 20-foot-wide private access/utility easement that would extend from the westernmost cul-de-sac. Additionally, a 16-foot-

wide emergency vehicle access easement is proposed to extend from this driveway to ensure adequate emergency vehicle circulation and turnaround.

Private 5-foot-wide (decomposed granite surface) pedestrian pathways are proposed along all internal streets of the subdivision for purposes of circulation and recreation. A pedestrian easement (decomposed granite surface) is also proposed through the northern portion of the site, trending east-west between several residential lots. This easement would facilitate pedestrian movement between Lot 51 and the end of the western cul-de-sac. A sidewalk is proposed along the project frontage onto La Costa Avenue. The proposed sidewalk would connect to an existing sidewalk that extends to the east of the site.

Utilities

Water

Public water service for the project would be provided by the San Dieguito Water District. Water utilities improvements would include: connection to the city's public water system via extension of an existing pipeline from La Costa Avenue into the site; replacing or upsizing an off-site water main; and construction of an internal water distribution system within the proposed on-site private streets. Public water service is currently provided to the two existing on-site residences.

Sewer

The project site is currently not connected to the public sewer system. The two existing residences use on-site septic systems for wastewater treatment. Wastewater treatment service for the project would be provided by the Leucadia Wastewater District. An existing sewer line located within La Costa Avenue would be extended into the site and would run within the private street system to provide service to the individual residences. Such improvements would include extension of public sewer service to the two existing on-site residences.

Storm Water Facilities

Under current conditions, a portion of the site drains to the northwest corner of the site, where several existing catch basins collect the runoff and convey it down the face of the steep slope to Batiquitos Lagoon. Additionally, a steep slope along the northeasterly edge of the property drains eastward toward I-5 then discharges via a PVC pipe into an existing earthen ditch in the I-5 corridor (within California Department of Transportation [Caltrans] right-of-way) at the base of the existing slope. Flows are then conveyed to the north and ultimately to Batiquitos Lagoon.

On-site improvements are proposed to enhance this existing infrastructure for the transport of storm water flows from the site. In particular, the existing drainage system that discharges from the northwest corner of the site into the lagoon is to be abandoned and redirected to the new proposed system conveying runoff on the northeast side of the project site. The improvements proposed with the project would enhance existing drainage/storm water quality conditions by conveying this runoff to the northeastern side of the site.

The project includes a drainage network designed to control and filter storm water runoff in conformance with the requirements of the San Diego Regional Water Quality Control Board (RWQCB) and the City of Encinitas. The proposed storm water system would include the use of biofilters, on-site

storage of storm water in basins with outlets to regulate the flow rate and duration of storm water released, and bioretention basins to slow and sequester runoff. In general, the site would drain south to north, either along proposed curb or within proposed concrete drainage ditches running along the eastern and western edges of the property. Storm water collected in proposed Basin A would drain out through a PVC pipe toward proposed Basin B. Basin B would discharge via a PVC pipe that outlets east toward the steep slope where it would discharge at the base of the existing slope. Improvements would include installation of an 18-inch PVC pipe to be horizontally directionally bored to protect the existing slope and construction of a riprap energy dissipater at the outfall along the toe of slope. Flows would then ultimately be conveyed north to Batiquitos Lagoon, as occurs under existing conditions.

Fences/Walls

Steep slopes (greater than 25 percent) are present onsite within the northeastern property boundary and off-site mostly beyond the northwestern property boundary. Development is not proposed along these slopes, although minor encroachment into the (manufactured) slope in the northwestern portion of the site near Lot 12 is required for project development. Slopes along the northeastern portion of the site would be protected for the long term via a proposed open space easement to be maintained by the HOA.

To reduce potential noise levels (generated by traffic on I-5) on on-site residential uses, a 6-foot-high masonry sound wall constructed on top of a 2-foot earthen berm is proposed along the boundaries of Lots 35, 37, and 39 as well as Lots 14, 15, 32, and 33. Several masonry retaining walls (maximum height of 6 feet) are proposed within the interior of the property. A 6-foot-high masonry wall is proposed along the length of the project frontage on La Costa Avenue; a 6-foot-high wooden fence is proposed along the western property boundary.

Signage

Monument signage is not proposed at the private drive entry along La Costa Avenue. Rather, signage would be provided just inside the site at the head of the proposed T-intersection and would not exceed 6 feet in height.

Demolition/Construction Phasing

The project site was formerly utilized as a commercial nursery; however, such operations have since ceased. Any remaining structures associated with the former on-site commercial flower operations would be demolished with project implementation to allow for the proposed land uses and supporting infrastructure.

Development of the site would occur at one time and would not be phased. All proposed improvements are anticipated to be constructed within an estimated 6-8 months.

Landscaping

Ornamental landscaping would be planted in proposed access easements along the on-site roadway system and on lots proposed for bioretention. Maintenance of all landscaping in the on-site easements would be the responsibility of the HOA. A number of on-site mature trees would also be maintained with project implementation.

Sustainability and Energy-Saving Features

The project would meet or exceed 2016 Title 24 energy efficiency requirements, resulting in homes that are approximately 20 percent more energy efficient than homes constructed prior to January 1, 2017. Future homes would be subject to any associated implementing ordinances of the City’s Climate Action Plan in effect at the time of application submittal for the homes and may be required to incorporate such features as solar photovoltaic systems, low flow fixtures, and/or solar water heaters. Other energy-saving features are anticipated to include drought-tolerant landscaping and low-water irrigation systems.

D. General Plan Land Use and Zoning

The City of Encinitas General Plan Land Use Map designates the project site as R-3 (Residential, 2.01-3.00 dwelling units per acre); existing zoning is R-3 (Residential). No changes to the existing land use or zoning are required or proposed to allow for project implementation.

E. Discretionary Actions

The following discretionary actions are being considered by the Planning Commission:

Permit/Action Required	Approving Agency	Lead/Trustee/Responsible Agency Designation
Tentative Map	City of Encinitas (City)	Lead Agency
Coastal Development Permit (CDP)	City	Lead Agency
Design Review	City	Lead Agency
Conceptual Landscape Plan	City	Lead Agency
Environmental Impact Report (EIR)	City	Lead Agency
Annexation to Leucadia Wastewater District	Local Agency Formation Commission (LAFCO)	Responsible Agency
General Construction Storm Water Permit	San Diego RWQCB	Responsible Agency
Construction Permit and/or Encroachment Permit	City/California Department of Transportation (Caltrans)	Lead Agency/Responsible Agency
Storm Water Quality Management Plan/ Drainage Plan	City	Lead Agency
Grading Permit	City	Lead Agency
Building Permit	City	Lead Agency
Improvement Plans	City	Lead Agency

F. Statement of Objectives

CEQA Guidelines Section 15124(b) requires the project description to contain a statement of objectives that includes the underlying purpose of the proposed project. The Weston Subdivision Project is intended to allow for future development of the subject site with 46 new single-family residences, including 4 “very low” affordable single-family residential DUs to address housing demands, including

affordable housing, within the Encinitas community. The project proposes improvements intended to provide additional passive recreational opportunities within the community; infrastructure improvements to improve storm water quality; and circulation improvements to enhance traffic flows and public safety.

CEQA Guidelines Section 15124(b) requires the project description to contain a statement of objectives that includes the underlying purpose of the proposed project. The primary objectives for the Weston Subdivision Project are identified as follows:

- Provide housing opportunities that are consistent with the goals of the adopted City of Encinitas General Plan, while minimizing environmental effects and protecting surrounding natural and aesthetic resources.
- Provide deed-restricted affordable housing for low-income families within the project using the state's Density Bonus law (California Government Code §65915, et seq.), thereby helping to meet the City's state-mandated affordable housing requirements.
- Design the project to appeal to growing demand for one- and two-story single-family residential homes that are compatible with the visual character of the surrounding community.
- Provide a sensitive design that minimizes potential adverse effects to or disturbance of sensitive coastal habitat or marine resources.
- Provide a site plan design that respects and integrates natural resources on-site (e.g. coastal bluffs, steep slopes, mature trees) while enhancing the City's ability to provide fiscally positive development.

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

In accordance with CEQA Guidelines Section 15082, the City distributed an NOP of the Draft EIR to the State Clearinghouse, local and regional responsible agencies, and other interested parties on December 22, 2017 for a 30-day public comment period. Various agencies and other interested parties responded to the NOP. In addition, a public agency scoping meeting was held on January 19, 2018.

The Draft EIR was prepared and circulated for review and comment by the public agencies and organizations for a 45-day public review period that began on June 18, 2018 and concluded on August 2, 2018. A Notice of Completion of the Draft EIR was sent to the California State Clearinghouse, Office of Planning and Research (SCH No. 2017121068). A Notice of Availability of the Draft EIR for review was mailed to property owners and occupants within 500 feet of the project site as well as known public agencies, organizations and parties anticipated to have an interest in the project. The Notice of Availability was also filed with the County Clerk and published in the Coast News. The City received comments on the proposed project. Those comments and the responses to comments have been incorporated into the Final EIR; refer to Chapter 9.0, Responses to Public Comments Received.

On December 6, 2018, the City of Encinitas Planning Commission held a public hearing on the proposed project. The Planning Commission recommended project approval and certification of the EIR.

IV. FINDINGS REQUIRED UNDER CEQA

CEQA Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of such projects[...]" The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures that will avoid or substantially lessen such significant effects. CEQA Section 21002 goes on to state that "in the event [that] 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."

The mandate and principles announced in CEQA Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The first such finding is that "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" (CEQA Guidelines Section 15091(a)(1)). The second permissible finding is that "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" (CEQA Guidelines Section 15091 (a)(2)). The third potential conclusion is that "specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR" (CEQA Guidelines Section 15091(a)(3)). CEQA Section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." CEQA Guidelines Section 15364 adds another factor: "legal" considerations (see also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565).

The concept of "feasibility" of a particular alternative or mitigation measure promotes the underlying goals and core objectives of a project (see *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18; see also *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417). "[F]easibility under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors" (Ibid).

The CEQA Guidelines do not define the difference between "avoiding" a significant environmental effect and merely "substantially lessening" such an effect. The City must therefore glean the meaning of these terms from the other contexts in which the terms are used. CEQA Section 21081, on which CEQA Guidelines Section 15091 is based, uses the term "mitigate" rather than "substantially lessen." The CEQA Guidelines therefore equate "mitigating" with "substantially lessening." Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy 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" (CEQA Section 21002).

For purposes of these Findings, the term "avoid" means to not result in a significant impact. In contrast, the term "substantially lessen" refers to the effectiveness of a mitigation measure or measures to substantially reduce the severity of a significant effect to a level less than significant.

Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a particular significant effect is "avoid[ed] or substantially lessen[ed]," these findings, for purposes of clarity, in each case will specify whether the effect in question has been reduced to a less-than-significant level or has simply been substantially lessened but remains significant. Moreover, although CEQA Guidelines Section 15091, read literally, does not require findings to address environmental effects that an EIR identifies as merely "potentially significant," these findings will nevertheless fully account for all such effects identified in the Final EIR.

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modifications or alternatives are not required, however, where such changes are infeasible. (CEQA Guidelines, §15091, subd. (a)(3)).

With respect to a project for which significant impacts are not avoided or substantially lessened either through the adoption of feasible mitigation measures or a feasible environmentally superior alternative, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a Statement of Overriding Considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects" (CEQA Guidelines Sections 15093 and 15043(b)). The California Supreme Court has stated that, "[t]he wisdom of approving...any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced" (Goleta, supra, 52 Cal.3d at p. 576; see also Cherry Valley Pass Acres & Neighbors v. City of Beaumont (2010) 190 Cal.App.4th 316, 357-359).

Legal Effects of Findings

To the extent that these Findings conclude that various project design features and mitigation measures outlined in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the City hereby binds itself to require implementation of these measures. These Findings, therefore constitute a binding set of obligations that will come into effect when the City formally approves the proposed project.

The adopted mitigation measures are included in the MMRP adopted concurrently with these Findings and will be effectuated through the process of implementation of the Weston Subdivision Project.

V. MITIGATION MONITORING AND REPORTING PROGRAM

As required by CEQA Section 21081.6 (a)(1), the City, in adopting these Findings, also concurrently adopts a MMRP. The program is designed to ensure that during implementation of the Weston Subdivision Project, all responsible parties comply with the feasible mitigation measures identified below in Section VII, Findings Regarding Significant Impacts. The City will use the MMRP to track compliance with project mitigation measures. The MMRP will be available for the public to review by

request during the mitigation compliance period, which is on-going following project approval through buildout of the project.

The monitoring program will serve the dual purpose of verifying completion of the mitigation measures for the project and generating information on the effectiveness of the mitigation measures to guide future decisions.

VI. FINDINGS REGARDING SIGNIFICANT IMPACTS

The Final EIR contains an environmental analysis of the potential impacts associated with implementing the proposed project. The Final EIR concludes that **all significant impacts identified in the EIR can be reduced to less than significant with incorporation of mitigation measures proposed**. No impacts would remain significant and unavoidable despite the adoption of all feasible mitigation measures.

A. Impacts Mitigated to Less than Significant Levels

Biological Resources

Threshold of Significance Issue 1: Substantial Adverse Effect on Sensitive Species

A significant impact relative to this issue would occur if the project would have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish or Wildlife or US Fish and Wildlife Service.

Impacts

The Migratory Bird Treaty Act (MBTA) implements international treaties between the United States and other nations devised to protect migratory birds, their parts, eggs, and nests from activities such as hunting, pursuing, capturing, killing, selling, and shipping, unless expressly authorized in the regulations or by permit. The State of California has incorporated the protection of birds of prey in Sections 3800, 3513, and 3503.5 of the California Fish and Game Code (FGC). All raptors and their nests are protected from take or disturbance under the MBTA (16 USC Section 703 et seq.) and California statute (FGC Section 3503.5).

As discussed in Section 3.3.3 of the EIR, no sensitive species are located or were observed on the project site. However, raptors have been historically observed in the area and there are large open areas on-site. Therefore, project construction activities (e.g., clearing or grading) occurring during nesting/breeding season may indirectly impact avian species on or adjacent to the site. Such impacts are considered significant.

Explanation

As evaluated in Section 3.3.3 of the EIR, a number of special-status species have been previously recorded in the project vicinity, although none are expected to occur on or adjacent to the site due to existing conditions (e.g., pavement, roads/freeway, developed land uses, and highly disturbed conditions from uses past and present) and the absence of suitable habitat. However, as raptors have been historically observed in the area, the potential for raptor foraging exists and indirect impacts to breeding birds and/or raptors may occur during project construction activities (e.g., clearing or grading)

if construction occurs during the nesting/breeding season (January to July). Impacts are considered to be significant.

Mitigation Measures

BIO-1 If construction is proposed during the bird/raptor breeding season (January to July), a qualified biologist, retained by the project applicant and approved by the City of Encinitas Development Services Department, shall perform a preconstruction survey for active nests shall be performed no more than three days prior to the initiation of construction. If an active nest is identified on-site, or in the immediate vicinity (area of potential noise impact to species), construction shall be postponed until the nest is no longer active or a City-approved biologist makes a determination of appropriate separation distance between the nest and active construction areas. Results of the preconstruction survey shall be submitted in a report to the Development Services Department for review and approval, and to the City's construction inspector at a preconstruction meeting, which shall occur prior to construction activity. This mitigation measure shall be included on construction plans, to the satisfaction of the Development Services Department, prior to construction permit issuance.

Timing/Implementation: Prior to and during construction activities

Enforcement/Monitoring: City of Encinitas Planning Division

Finding

The City finds that, pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measure BIO-1 is a feasible mitigation measure and shall be required as a condition of approval. Mitigation measure BIO-1 contains a measurable performance standard requiring specific feasible mitigation measures (if necessary) to reduce the project's potential indirect impact on sensitive avian species during construction that may be inhabiting the project area to less than significant. With implementation of such mitigation, the project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service. Impacts would be reduced to less than significant.

Threshold of Significance Issue 2: Substantial Adverse Effect on Riparian Habitat or Other Sensitive Natural Community

A significant impact relative to this issue would occur if the project would have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service.

Impacts

The Batiquitos Lagoon preserve, identified in the City of Carlsbad's Habitat Management Plan (HMP), is located within the 100-foot wetland buffer extending from the wetland areas of the lagoon. The wetland buffer is roughly contiguous with the northern boundary of proposed Lots 13 and 14 and encroaches into open space planned on proposed Lots 14 and 15. Due to adjacency to the preserve, the

project has the potential to result in a significant impact from indirect "edge" effects on riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations. A significant impact would occur.

Explanation

As evaluated in Section 3.3.3 of the EIR, the Batiquitos Lagoon preserve, identified in the City of Carlsbad's HMP, is located within the 100-foot wetland buffer extending from the wetland areas of the lagoon. The landward extent of the wetland buffer is roughly contiguous with the northern boundary of (proposed project) Lots 13 and 14. The wetland buffer also encroaches into the proposed open space easement within the western portions of (proposed project) Lots 14 and 15. As discussed in Section 3.7, Hydrology and Water Quality, of the EIR, project implementation would not result in pollutant runoff into Batiquitos Lagoon, but instead would significantly improve upon existing conditions through the capture and treatment of storm water before its release towards the lagoon.

The project design would maintain a 100-foot wetland buffer within a proposed open space easement in compliance with Policy 10.6 of the City of Encinitas General Plan Resource Management Element. However, due to adjacency to the preserve, the project has the potential to result in a significant impact related to indirect "edge" effects. Mitigation measures BIO-2 and BIO-3 would reduce impacts on riparian habitats or other sensitive natural communities identified in local or regional plans, policies, regulations to less than significant.

Mitigation Measures

BIO-2 Restrictions for landscaping, lighting, and predator control, as provided below, shall be implemented by the Homeowner Association (HOA) and as part of future discretionary development for properties not subject to HOA regulations. The HOA Covenants, Conditions and Restrictions (CC&Rs) shall be reviewed and approved by the Development Services Department prior to building permit issuance. The restrictions shall apply to the open space easement and shall, to the satisfaction of the Development Services Department, be included as part of (1) the HOA Covenants, Restrictions, and Conditions (CC&Rs), and (2) conditions of approval for any future discretionary development permit for properties not subject to regulations of an HOA. The CC&R's shall indicate that the restrictions shall not be amended without prior approval by the City of Encinitas. The restrictions for this measure, as applicable to the HOA and/or property owners not subject to HOA regulations, are provided as follows:

Landscape Restrictions

- All landscaping planted within the project subdivision shall comply with the City's Invasive Plant Policy.
- No invasive plant species shall be planted in or adjacent to the open space easement or the 100-foot wetland buffer adjacent to the Batiquitos Lagoon (Lots 13, 14, 15, 31, 32, 33 and 51).
- Irrigation runoff shall be directed away from the open space easement and the 100-foot wetland buffer adjacent to the Batiquitos Lagoon.

- Landscape plans shall indicate that the use of any native species shall be sourced from local suppliers providing locally grown species.

Lighting

- The Homeowner's Association or property owner not subject to HOA regulations shall ensure that development lighting adjacent to the open space easement and the 100-foot wetland buffer adjacent to the Batiquitos Lagoon shall be directed away from and/or shielded so as not to illuminate these areas.

Predator Control

- Permanent fencing protecting the proposed open space easement shall be maintained in perpetuity by the HOA or property owner not subject to HOA regulations.
- Permanent fencing protecting the 100-foot wetland buffer adjacent to the Batiquitos Lagoon shall be maintained in perpetuity by the property owners of Lots 13 and 14.
- Permanent fencing along the open space easement and the 100-foot wetland buffer of the Batiquitos Lagoon should have no publicly accessible gates and shall be designed to prevent intrusion by pets.

Timing/Implementation: Prior to building permit issuance

Enforcement/Monitoring: City of Encinitas Planning Division

BIO-3 Prior to discretionary permit and construction permit issuance for development on Lots 13-15, 32, 33, and 51, conditions of approval and construction plans shall specify that all outdoor lighting shall be shielded with full-cutoff light fixtures and directed away from adjacent open space easement and the 100-foot wetland buffer adjacent to the wetland limits of the Batiquitos Lagoon. Construction plans shall also state that if nighttime work is necessary, night lighting shall be of the lowest illumination necessary for human safety, selectively placed, shielded and directed away from the lagoon and natural habitats.

Timing/Implementation: Prior to discretionary and construction permit issuance

Enforcement/Monitoring: City of Encinitas Planning Division

Finding

The City finds that with implementation of mitigation measures BIO-2 and BIO-3, the project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service. Impacts would be reduced to less than significant.

Threshold of Significance Issue 3: Substantial Adverse Effect on Federally Protected Wetlands

A significant impact relative to this issue would occur if the project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but

not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

Impacts

The project site lies within the boundary of the City of Carlsbad HMP preserve which includes the area adjacent to the Batiquitos Lagoon to the north of the subject property. Due to the project's adjacency to the preserve, the project has the potential to result in indirect "edge" effects on adjacent federally protected wetlands. Impacts are considered significant.

Explanation

As evaluated in Section 3.3.3 of the EIR, the project site is largely developed and/or disturbed and no sensitive natural vegetation communities are present that would be directly impacted by the project. The Batiquitos Lagoon preserve, identified in the City of Carlsbad HMP, is located within the 100-foot wetland buffer extending from the wetland areas of the lagoon. As discussed in Section 3.7, Hydrology and Water Quality, of the EIR, the project would not result in pollutant runoff into Batiquitos Lagoon, but instead would significantly improve upon existing conditions through capture and treatment of storm water before its release towards the lagoon.

The project design maintains a 100-foot wetland buffer within a proposed open space easement in compliance with Policy 10.6 of the City's General Plan Resource Management Element, thereby avoiding direct impacts. However, potentially significant indirect "edge" effects due to the project's adjacency to the preserve may occur. Implementation of mitigation measures BIO-2 and BIO-3 would reduce potential impacts on federally protected wetlands to less than significant.

Mitigation Measures

Implement mitigation measures BIO-2 and BIO-3.

Finding

The City finds that with implementation of mitigation measures BIO-2 and BIO-3, the project would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. Impacts would be reduced to less than significant.

Threshold of Significance Issue 4: Interfere Substantially with Wildlife Movement or Impede Use of Native Wildlife Nursery Sites

A significant impact relative to this issue would occur if the project would interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impeded the use of native wildlife nursery sites.

Impacts

As discussed in Section 3.3.3 of the EIR, no sensitive species are located or were observed on the project site. However, raptors have been historically observed in the area and there are large open areas on-site. Project construction activities may result in indirect impacts to breeding birds/raptors if

construction is proposed during the bird/raptor breeding season (January to July). Impacts are considered significant.

Explanation

As evaluated in Section 3.3.3 of the EIR, the project site is disturbed and does not support suitable habitat or water bodies for migratory species. The City's Draft Multiple Habitat Conservation Plan (MHCP) Subarea Plan identifies Wildlife Corridor Planning Zones in the Encinitas subarea. The project site is not located within these corridors. The project would not impede the use of any native wildlife nursery sites, as none exist in the area.

However, as raptors have been historically observed in the area and there are areas of open land on the project site, raptor foraging may occur. The project is subject to the requirements of the federal Migratory Bird Treaty Act which would reduce the potential for temporary indirect impacts (e.g., noise, human presence) to raptors during project construction. As mitigation for potentially significant impacts to raptors, if project grading/construction activities are scheduled during the nesting season for breeding raptors, mitigation measure BIO-1 would be implemented to reduce impacts to less than significant.

Mitigation Measures

Implement mitigation measure BIO-1.

Finding

The City finds that, pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measure BIO-1 is a feasible mitigation measure and shall be required as a condition of approval. Mitigation measure BIO-1 contains a measurable performance standard requiring specific feasible mitigation measures (if necessary) to reduce the project's potential indirect impact on sensitive avian species during construction. Actions would be required to ensure that construction activities are restricted during the nesting/breeding season to avoid disturbance of such species. With implementation of such mitigation, the project would not interfere substantially with wildlife movement or impede use of native wildlife nursery sites. Impacts would be less than significant.

Threshold of Significance Issue 6: Conflict with the Provisions of an Adopted Habitat Conservation Plan, Natural Community Conservation Plan, or Other Approved Local, Regional or State Habitat Conservation Plan

A significant impact relative to this issue would occur if the project would conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

Impacts

The project site lies within the boundary of the City of Carlsbad HMP preserve which includes the area adjacent to the Batiquitos Lagoon to the north of the subject property. Policies included in the HMP address adjacency standards to address the potential for indirect "edge" effects (e.g., adjacency of the

proposed project to the preserve). Therefore, the project would have the potential to conflict with an adopted habitat conservation plan and impacts are considered significant.

Explanation

As evaluated in Section 3.3.3 of the EIR, the project site lies within the boundaries of the City of Encinitas Draft Multiple Habitat Conservation Program (MHCP) Subarea Plan but is not part of the Plan's designated preserve area. Four Torrey pine trees have been documented on-site, all of which would be protected and preserved. No other sensitive species have been documented on the project site due to the lack of suitable habitat and level of disturbance, and no wetlands or riparian habitat are present, as indicated in the Subarea Plan.

The project lies along the southern border of the City of Carlsbad; adjacent to the Batiquitos Lagoon, which is part of the Carlsbad HMP preserve. The HMP serves as Carlsbad's Subarea Plan, which implements provisions of the North County MHCP adopted by the San Diego Association of Governments (SANDAG). Although the City of Encinitas does not have an adopted MHCP Subarea Plan, for the purposes of complying with CEQA, the EIR addressed the project's consistency with local and regional policies adopted for the purpose of protecting biological resources.

The project would not result in direct impacts on biological resources within the HMP preserve. As such, the majority of the Carlsbad HMP preserve conservation policies do not apply to the proposed project. The HMP policies include adjacency standards, provided to address the potential for significant impacts relative to indirect "edge" effects (e.g., due to adjacency to the preserve). Implementation of mitigation measures BIO-2 and BIO-3 would ensure that indirect edge effects resulting with the proposed project due to adjacency to the Batiquitos Lagoon would be reduced to less than significant.

Mitigation Measures

Implement mitigation measures BIO-2 and BIO-3.

Finding

The City finds that with implementation of mitigation measures BIO-2 and BIO-3, the project would not conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan. Impacts would be reduced to less than significant.

Cultural Resources

Threshold of Significance Issue 2: Substantial Adverse Change in the Significance of an Archaeological Resource

and/or

Threshold of Significance Issue 5: Cause a Substantial Adverse Change in The Significance of a Tribal Cultural Resource, Defined in Public Resources Code Section 21074 as Either a Site, Feature, Place, Cultural Landscape that is Geographically Defined in Terms of Size and Scope of the Landscape, Sacred Place, or Object with Cultural Value to a California Native American Tribe, and that is:

- **Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k); or**
- **A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.**

A significant impact relative to this issue would occur if the project were to result in a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5 or of a tribal cultural resource as defined in Public Resources Code Section 21074.

Impacts

As discussed in Section 3.4.3 of the EIR, known prehistoric archaeological historical resources are located on-site within the proposed development footprint. The potential for project-related ground-disturbing construction activities to adversely affect known and unknown archaeological resources on-site is considered to be significant.

Explanation

As discussed in Section 3.4.3 of the EIR, CA-SDI-17928 and Weston-01 are prehistoric archaeological historical resources located in the Area of Direct Impact (ADI) that would be affected by project construction activities. CA-SDI-17928 was determined eligible for listing in the National Register and the California Register. Weston-01 is a historical resource because it is assumed eligible for inclusion in the California Register for purposes of the project (Michael Baker International 2017).

Various subsurface construction disturbances resulting with project construction would have the potential to adversely affect archaeological historical resources on-site. The project applicant proposes to limit ground disturbance to the area of the site within the ADI, which would limit impacts to one of the two known archaeological historical resources. While the ADI avoids the majority of identified resources on-site, ground disturbance would occur within the ADI, resulting in the potential to disturb known and previously undiscovered resources. However, the magnitude of any impacts is unknown because such resources are located underground.

Mitigation measures CUL-1 to CUL-8 and conformance with applicable state regulations would address the recovery of known archaeological historical resources and the potential for encountering undiscovered cultural and/or tribal cultural resources. These measures would include a recovery plan, preconstruction meeting, construction monitoring, and archaeological data recovery and would mitigate potential impacts to a less than significant level.

Mitigation Measures

CUL-1 Due to the high potential for uncovering unknown subsurface archaeological resources, including Native American tribal cultural resources, cultural resource mitigation monitoring shall be undertaken for any and all on-site and off-site ground disturbing activities. If on-site and/or off-site ground disturbing activities (e.g., exploratory trenching or excavations) are required for any informal or formal solicitation (written or spoken) of construction bids or similar requirements, all applicable requirements identified in mitigation measures CUL-2 to CUL-8 shall be undertaken by the applicant and/or owner.

CUL-2 A Cultural Resource Mitigation Monitoring Program shall be conducted to provide for the identification, evaluation, treatment, and protection of any cultural resources that are affected by or may be discovered during the construction of the proposed project. The monitoring shall consist of the full-time presence of a qualified archaeologist and a traditionally and culturally affiliated (TCA) Native American monitor for, but not limited to, any clearing or grubbing of vegetation, tree removal, demolition and/or removal of remnant foundations, pavements, abandonment and/or installation of infrastructure; grading or any other ground disturbing or altering activities, including the placement of imported fill materials (note: all fill materials shall be absent of any and all cultural resources); and related road improvements, including, but not limited to, La Costa Avenue. Other tasks of the monitoring program shall include the following:

1. The requirement for cultural resource mitigation monitoring shall be noted on all applicable construction documents, including demolition plans, grading plans, etc.
2. The qualified archaeologist and TCA Native American monitor shall attend all applicable pre-construction meetings with the Contractor and/or associated Subcontractors.
3. The qualified archaeologist shall maintain ongoing collaborative consultation with the TCA Native American monitor during all ground disturbing or altering activities, as identified above.
4. The qualified archaeologist and/or TCA Native American monitor may halt ground disturbing activities if archaeological artifact deposits or cultural features are discovered. In general, ground disturbing activities shall be directed away from these deposits for a short time to allow a determination of potential significance, the subject of which shall be determined by the qualified archaeologist and the TCA Native American monitor, in consultation with the San Luis Rey Band of Mission Indians ("San Luis Rey Band"). Ground-disturbing activities shall not resume until the qualified archaeologist, in consultation with the TCA Native American monitor, deems the cultural resource or feature has been appropriately documented and/or protected. At the discretion of the qualified archaeologist's, the location of ground disturbing activities may be relocated elsewhere on the project site to avoid further disturbance of cultural resources.

5. The avoidance and protection of discovered unknown and significant cultural resources and/or unique archaeological resources is the preferable mitigation for the proposed project. If avoidance is not feasible a Data Recovery Plan may be authorized by the City as the lead agency under CEQA. If a data recovery is required, then the San Luis Rey Band shall be notified and consulted in drafting and finalizing any such recovery plan.
6. The qualified archaeologist and/or TCA Native American monitor may also halt ground disturbing activities around known archaeological artifact deposits or cultural features if, in their respective opinions, there is the possibility that they could be damaged or destroyed.

CUL-3 Prior to the issuance of a grading permit, and subject to approval of terms by the City, the applicant or owner, and/or contractor shall enter into a Pre-Excavation Agreement with the San Luis Rey Band, or other TCA tribe. The purpose of this agreement shall be to formalize protocols and procedures between the applicant or owner, and/or contractor, and the San Luis Rey Band for the protection and treatment of, but not limited to, such items as Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through the cultural resource mitigation monitoring program in conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, soil surveys, grading, or any other ground disturbing activities.

CUL-4 Prior to the issuance of a grading permit, the applicant or owner, and/or contractor shall provide a written and signed letter to the City's Director of Development Services, stating that a City-approved qualified archaeologist and a TCA Native American monitor have been retained at the applicant or owner and/or contractor's expense to implement the monitoring program, as described in the pre-excavation agreement. A copy of the letter shall be included in the grading plan submittals for the grading permit.

CUL-5 Prior to any ground disturbing activities and/or the issuance of a grading permit and concurrent with any demolition activities within the project area, a Phase II archaeological assessment shall occur and be completed to determine the boundaries of CA-SDI-17,928 and Weston-01, and identify any additional potential negative impacts to subsurface tribal cultural resources that have not yet been identified due to safety conditions at the project area. The Phase II archaeological assessment shall be developed by the qualified archaeologist and the San Luis Rey Band of Mission Indians. All sacred sites, significant tribal cultural resources and/or unique archaeological resources encountered within the project area shall be avoided and preserved as the preferred mitigation, if feasible.

CUL-6 Prior to the issuance of a grading permit, and in order for potentially significant archaeological artifact deposits and/or cultural resources to be readily detected during mitigation monitoring, a written "Controlled Grade Procedure" shall be prepared by a qualified archaeologist, in consultation with the TCA Native American monitor, the San Luis Rey Band, and the applicant or owner, subject to the approval of City representatives. The Controlled Grade Procedure shall establish requirements for any ground disturbing work with machinery occurring in and around areas the qualified archaeologist and TCA Native American monitor determine to be sensitive through the cultural resource mitigation monitoring process. The Controlled Grade Procedure shall include, but not be limited to, appropriate operating pace, increments of removal, weight

and other characteristics of the earth disturbing equipment. A copy of the Controlled Grade Procedure shall be included in the grading plan submittals for the grading permit.

CUL-7 Prior to the release of the grading bond, a Monitoring Report and/or Evaluation Report, which describes the results, analysis and conclusions of the cultural resource mitigation monitoring efforts (such as, but not limited to, the Research Design and Data Recovery Program) shall be submitted by the qualified archaeologist, along with the TCA Native American monitor's notes and comments, to the City's Director of Development Services for approval.

CUL-8 The landowner shall relinquish ownership of all tribal cultural resources collected during the cultural resource mitigation monitoring conducted during all ground disturbing activities, and from any previous archaeological studies or excavations on the project site to the San Luis Rey Band for respectful and dignified treatment and disposition, including reburial, in accordance with the Tribe's cultural and spiritual traditions. All cultural materials that are associated with burial and/or funerary goods will be repatriated to the Most Likely Descendant as determined by the Native American Heritage Commission per California Public Resources Code Section 5097.98.

Timing/Implementation: Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance

Enforcement/Monitoring: City of Encinitas Planning Division

Finding

The City finds that with implementation of mitigation measures CUL-1 to CUL-8, the project would not result in a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5 or a tribal cultural resource as defined in Public Resources Code Section 21074.

Threshold of Significance Issue 3: Destroy a Unique Paleontological Resource or Site or Unique Geological Feature

A significant impact relative to this issue would occur if the project would directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

Impacts

The majority of the project site is considered to be sensitive for paleontological resources. Therefore, the project has the potential to directly or indirectly destroy a unique paleontological resource or site or unique geological feature. Impacts are considered significant.

Explanation

Fossil remains, fossil sites, fossil-producing geologic formations, and geologic formations with the potential for containing fossil remains are considered paleontological resources or have the potential to be paleontological resources. As evaluated in Section 3.4.3 of the EIR, impacts on paleontological resources occur when excavation activities encounter fossiliferous geological deposits and cause

physical destruction of fossil remains. The potential for impacts on fossils is influenced by the sensitivity of the geologic unit and the amount and depth of grading and/or excavation.

The project area is underlain by Torrey Sandstone and the Del Mar Formation which are considered sensitive for paleontological resources. Project grading and/or excavation activities may result in the unanticipated discovery of paleontological resources, or damage or destruction of unknown paleontological resources, that may be present below the ground surface. Therefore, the project would have the potential to result in inadvertent discovery of previously unknown paleontological resources and potentially significant direct or indirect impacts may occur.

Mitigation Measures

CUL-9 Paleontological Data Recovery and Monitoring Plan: Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance, a Data Recovery and Monitoring Plan shall be prepared and implemented to the satisfaction of the City. The Plan shall document paleontological recovery methods.

1. Prior to grading permit issuance, the project applicant shall implement a paleontological monitoring and recovery program consisting of the following measures, which shall be included on project grading plans to the satisfaction of the Development Services Department:
 - a. The project applicant shall retain the services of a qualified paleontologist to conduct a paleontological monitoring and recovery program. A qualified paleontologist is defined as an individual having an M.S. or Ph.D. degree in paleontology or geology, and who is a recognized expert in the identification of fossil materials and the application of paleontological recovery procedures and techniques. As part of the monitoring program, a paleontological monitor may work under the direction of a qualified paleontologist. A paleontological monitor is defined as an individual having experience in the collection and salvage of fossil materials.
 - b. The qualified paleontologist shall attend the project pre-construction meeting to consult with the grading and excavation contractors concerning the grading plan and paleontological field techniques.
 - c. The qualified paleontologist or paleontological monitor shall be on site on a full-time basis during the original cutting of previously undisturbed portions of the underlying very old paralic deposits. If the qualified paleontologist or paleontological monitor ascertains that the noted formations are not fossil-bearing, the qualified paleontologist shall have the authority to terminate the monitoring program.
 - d. If fossils are discovered, recovery shall be conducted by the qualified paleontologist or paleontological monitor. In most cases, fossil salvage can be completed in a short period of time, although some fossil specimens (such as a complete large mammal skeleton) may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) shall have the authority to temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner.

- e. If subsurface bones or other potential fossils are found anywhere within the project site by construction personnel in the absence of a qualified paleontologist or paleontological monitor, the qualified paleontologist shall be notified immediately to assess their significance and make further recommendations.
 - f. Fossil remains collected during monitoring and salvage shall be cleaned, sorted, and catalogued. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall be deposited (as a donation) in a scientific institution with permanent paleontological collections such as the San Diego Natural History Museum.
2. Prior to building permit issuance, a final summary report outlining the results of the mitigation program shall be prepared by the qualified paleontologist and submitted to the Development Services Department for concurrence. This report shall include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils, as well as appropriate maps.

Timing/Implementation: Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance

Enforcement/Monitoring: City of Encinitas Planning Division

Finding

The City finds that with implementation of mitigation measure CUL-9, the project would not have the potential to directly or indirectly destroy a unique paleontological resource or site or unique geological feature. Impacts would be reduced to less than significant.

Hazards and Hazardous Materials

Threshold of Significance Issue 2: Release of Hazardous Materials into the Environment

A significant impact relative to this issue would occur if the project would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Impacts

Historic agricultural operations on the project site have resulted in the presence of organochlorine pesticides (OCP) above acceptable levels which pose a potential hazard to the public and/or the environment with future development as proposed. The potential release of such hazardous materials into the environment is considered to be significant.

Explanation

The Phase I and Limited Phase II Environmental Site Assessment (ESA) prepared for the project (Leighton and Associates 2015) determined that prior pesticide use during former agricultural operations on-site represented a recognized environmental condition (REC) requiring further assessment. As evaluated in Section 3.6.3 of the EIR, subsequent on-site soil testing indicated that historical agricultural use of the site has resulted in the presence of OCPs that exceed acceptable Regional Screening Levels (RSLs) for

residential soil in shallow soils (<5 feet below ground surface). Leighton and Associates, Inc. (2017) prepared an OCP-impacted Soils Investigation which detected OCPs in 113 of the 131 soil samples collected and analyzed by Environmental Protection Agency (EPA) Method 8081 during the investigation. As a result, the project would have the potential to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Impacts are considered to be significant. No long-term operational impacts relative to hazards and hazardous materials were identified.

Mitigation Measures

HAZ-1 Prior to and during grading and excavation activities, the OCP-impacted soil above the RSL-R for toxaphene shall be excavated and stockpiled on-site. The estimated area and depth of toxaphene-impacted soils requiring removal on the property are depicted in Figure 4 of the Property Mitigation Plan (PMP) (see Appendix 3.6b). Subsequent to excavation of the OCP-impacted soil, the soil encapsulation areas depicted in Figure 5 of the PCP shall be excavated with a 1:1 slope 7 feet outside of the building footprint down to approximately 7 feet below ground surface (bgs) with a 4-foot vertical wall to the depth of burial. Soils removed below the building footprint shall be stockpiled on-site for reuse as capping material. Once the excavation has reached the desired depth (anticipated to be 11 feet below the existing grade), the burial area shall be surveyed by the project land surveyor. The OCP-impacted soil shall then be placed in the base of the excavation and mechanically compacted to obtain a minimum relative compaction of 90 percent of the laboratory standard. The impacted soil shall be placed up to a depth not less than 7 feet below the designed finish grade of the building pads after remedial grading and import fill has been graded into the site. No OCP-impacted soil shall be placed beneath the planned backyards, roadways, or city easements.

Following the placement of the OCP-impacted soil at the base of the excavation, a geotextile fabric or similar material shall be placed over the impacted fill. The project land surveyor shall then survey the location of the OCP-impacted fill to ensure that 7 feet of clean fill encapsulates the impacted soils prior to placing clean, compacted fill to finished grade.

Timing/Implementation: Prior to and during grading and excavation activities

Enforcement/Monitoring: City of Encinitas Planning Division

HAZ-2 Applicable provisions of the Property Mitigation Plan (Leighton and Associates, July 2017), including mitigation measure HAZ-1 above, shall be incorporated as part of the grading plans and implemented to the satisfaction of the City of Encinitas Development Services Department and the San Diego County Department of Environmental Health (DEH).

Timing/Implementation: Prior to grading permit issuance and during grading

Enforcement/Monitoring: City of Encinitas Planning Division

HAZ-3 Prior to building permit issuance, a remediation summary report and closure request to the San Diego County DEH Voluntary Assistance Program and the City of Encinitas Development Services Department shall be prepared and submitted for review and approval. The closure request shall include the location of contaminants, excavated soil, and any on-site disposal of

contaminated soils on cross-section and plan view figures. The closure request shall also include a discussion of remediation activities and any deviations from the approved work plan.

Timing/Implementation: Prior to building permit issuance

Enforcement/Monitoring: City of Encinitas Planning Division

HAZ-4 Prior to building permit issuance, a "Closure Letter" issued by the San Diego County DEH to the City of Encinitas Development Services Department and Public Works Department shall be prepared and submitted.

Timing/Implementation: Prior to building permit issuance

Enforcement/Monitoring: City of Encinitas Planning Division

HAZ-5 Prior to building permit issuance, the project applicant shall record a covenant against all parcels on the project site having buried contaminated soils. The covenant shall include the approved remediation summary report and closure letter as approved by the San Diego County DEH. The covenant shall be reviewed and approved by the Development Services Department prior to recordation.

Timing/Implementation: Prior to building permit issuance

Enforcement/Monitoring: City of Encinitas Planning Division

Finding

The City finds that the proposed project would result in potentially significant impacts to hazards and hazardous conditions (upset or accident conditions resulting in release of hazardous materials). Implementation of mitigation measures HAZ-1 to HAZ-5 would reduce this impact to less than significant.

Transportation and Circulation

Threshold of Significance Issue 1: Cause an Increase in Traffic which is Substantial in Relation to the Existing Traffic Load and Capacity of the Street System

A significant impact relative to this issue would occur if the project would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections).

Impacts

The project is calculated to have a direct impact at the intersection of La Costa Avenue and Seabreeze Court. The project would degrade the level of service (LOS) at this intersection to an unacceptable level and a significant impact would occur.

All street segments within the study area evaluated in the EIR would continue to maintain an acceptable LOS with project implementation. Impacts in this regard would be less than significant.

Explanation

The project (with a net increase of 46 new homes) is calculated to generate 460 average daily trips (ADT), 38 AM peak hour trips (12 inbound and 26 outbound) and 46 PM peak hour trips (33 inbound and 13 outbound).

As evaluated in Section 3.10.3 of the EIR, the addition of project-generated traffic is calculated to have a direct impact at the intersection of La Costa Avenue and Seabreeze Court. The project would degrade LOS at this intersection from LOS A to LOS E during both the AM and PM peak hours, thereby causing an unacceptable reduction in LOS. A significant impact would occur.

Mitigation Measures

TRA-1 La Costa Avenue at Seabreeze Court. Improve La Costa Avenue between Seabreeze Court and I-5 as depicted in Figure 3.10-1 of the EIR.

Timing/Implementation: During project construction and prior to issuance of a certificate of occupancy

Enforcement/Monitoring: City of Encinitas Engineering and Planning Divisions

Finding

The City finds that, pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measure TRA-1 is a feasible mitigation measure and shall be required as a condition of approval. Mitigation measure TRA-1 will reduce the project's potential direct impact on La Costa Avenue between Seabreeze Court and I-5 to less than significant by requiring the applicant to provide a striped center two-lane left turn lane on La Costa Avenue along the project frontage; refer to Figure 3.10-1, Proposed Mitigation (La Costa Improvements and Striping with TWLTL) of the EIR. With implementation of mitigation measure TRA-1, the resulting level of service would be improved to LOS B or better under all scenarios, as shown in Appendix L of Appendix 3.10 of the EIR, and the project would not cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system. Impacts would be reduced to less than significant.

Threshold of Significance Issue 2: Exceed, Either Individually or Cumulatively, a Level of Service Standard Established by the County Congestion Management Agency for Designated Roads or Highways.

A significant impact relative to this issue would occur if the project would potentially exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways.

Impacts

The project would contribute to a cumulative impact at the intersection of La Costa Avenue and Seabreeze Court as it would cause level of service to degrade from LOS A to LOS F under the Existing plus Project plus Cumulative condition. The project's contribution to this cumulative impact is considered to be significant.

While the study street segments analyzed in the EIR would operate at LOS D or F under the cumulative scenario, the addition of project traffic would not be considered cumulatively considerable, and thus, would be less than significant.

Explanation

As evaluated in Section 3.10.3 of the EIR, the project would contribute to a cumulative impact at the intersection of La Costa Avenue and Seabreeze Court as the level of service would be reduced from LOS A to LOS F under the Existing plus Project plus Cumulative condition. As the project would result in a direct impact at this intersection (Issue 1 discussion above), it is anticipated that the addition of cumulative traffic from area growth would compound that impact. The project's contribution to this cumulative impact is considered to be significant.

Mitigation Measures

Implement mitigation measure TRA-1.

Finding

The City finds that the proposed project would have the potential to exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways. Mitigation measure TRA-1 will reduce the project's potential direct impact on La Costa Avenue between Seabreeze Court and I-5 to less than significant by requiring the applicant to provide a striped center two-lane left turn lane on La Costa Avenue along the project frontage; refer to Figure 3.10-1, Proposed Mitigation (La Costa Improvements and Striping with TWLTL) of the EIR. With implementation of mitigation measure TRA-1, the resulting level of service would be improved to LOS B or better under all scenarios, as shown in Appendix L of Appendix 3.10 of the EIR, and the project would not contribute to an increase in traffic on a cumulative level that is substantial in relation to the existing traffic load and capacity of the street system. Impacts would be reduced to less than significant.

THIS PAGE IS INTENTIONALLY BLANK.

PC Resolution No. 2019-08 – Exhibit “C”

Weston Subdivision Project

**MITIGATION MONITORING
AND REPORTING PROGRAM**

(SCH #2017121068)

THIS PAGE INTENTIONALLY LEFT BLANK.

MITIGATION MONITORING AND REPORTING PROGRAM

Weston Subdivision Project

Case No.: 15-222 TMDB/DR/CDP

State Clearinghouse (SCH) No. 2017121068

Lead Agency:

City of Encinitas

Contact: Scott Vurbeff, Environmental Project Manager

505 South Vulcan Avenue

Encinitas, California 92024

Preparer:

Michael Baker International

Contact: Bob Stark, AICP

5050 Avenida Encinas, Suite 260

Carlsbad, CA 92008

December 2018

THIS PAGE INTENTIONALLY LEFT BLANK.

1. INTRODUCTION

This document is the Mitigation Monitoring and Reporting Program (MMRP) for the Weston Subdivision Project (proposed project). An MMRP is required for the proposed project because the Environmental Impact Report (EIR) prepared for the project has identified significant adverse impacts, and measures have been identified to mitigate those impacts. This MMRP has been prepared pursuant to Section 21081.6 of the California Public Resources Code, which requires public agencies to "adopt a reporting and monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment."

2. MITIGATION MONITORING AND REPORTING PROGRAM

As the lead agency, the City of Encinitas will be responsible for monitoring compliance with all mitigation measures. Different City departments may be responsible for various aspects of the project. The MMRP identifies the department with the responsibility for ensuring that each individual mitigation measure is completed; however, it is expected that one or more departments will coordinate efforts to ensure such compliance.

The MMRP is presented in tabular form on the following pages. The components of the MMRP are described briefly below.

- **Potential Significant Impact:** The significance threshold is restated to describe the potentially significant impact.
- **Mitigation Measure:** The mitigation measures to be adopted (as identified in the EIR) are restated.
- **Timeframe of Mitigation:** Identifies at which stage of the project the mitigation measure shall be completed.
- **Monitoring, Enforcement and Reporting Responsibility:** Identifies the department within the City with responsibility for mitigation monitoring.

THIS PAGE INTENTIONALLY LEFT BLANK.

**Mitigation Monitoring and Reporting Program
PC Resolution No. 2019-08- Exhibit "C"**

Potential Significant Impact	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
<p>Biological Resources</p> <p>Issue 1 The proposed project could have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service.</p>	<p>BIO-1 If construction is proposed during the bird/raptor breeding season (January to July), a qualified biologist, retained by the project applicant and approved by the City of Encinitas Development Services Department, shall perform a preconstruction survey for active nests no more than three days prior to the initiation of construction. If an active nest is identified on-site, or in the immediate vicinity (area of potential noise impact to species), construction shall be postponed until the nest is no longer active or a City-approved biologist makes a determination of appropriate separation distance between the nest and active construction areas. Results of the preconstruction survey shall be submitted in a report to the Development Services Department for review and approval, and to the City's construction inspector at a preconstruction meeting, which shall occur prior to construction activity. This mitigation measure shall be included on construction plans, to the satisfaction of the Development Services Department, prior to construction permit issuance.</p>	<p>Prior to and during construction activities</p>	<p>City of Encinitas Planning Division</p>
<p>Issue 2 The proposed project could have a substantial adverse effect on a riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service.</p>	<p>BIO-2 Restrictions for landscaping, lighting, and predator control, as provided below, shall be implemented by the Homeowner Association (HOA) and as part of future discretionary development for properties not subject to HOA regulations. The HOA Covenants, Conditions and Restrictions (CC&Rs) shall be reviewed and approved by the Development Services Department prior to building permit issuance. The restrictions shall apply to the open space easement and shall, to the satisfaction of the Development Services Department, be included as part of (1) the HOA Covenants, Restrictions, and Conditions (CC&Rs), and (2) conditions of approval for any future discretionary development permit for properties not subject to regulations of an HOA. The CC&R's shall indicate that the restrictions shall not be amended without prior approval by the City of Encinitas. The restrictions for this measure, as applicable to the HOA and/or property owners not subject to HOA regulations, are provided as follows:</p>	<p>Prior to building permit issuance</p>	<p>City of Encinitas Planning Division</p>

Planning Commission Resolution 2019-08, Exhibit "C"

Potential Significant Impact	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>Landscaping Restrictions</p> <ul style="list-style-type: none"> All landscaping planted within the project subdivision shall comply with the City's Invasive Plant Policy. No invasive plant species shall be planted in or adjacent to the open space easement or the 100-foot wetland buffer adjacent to the Batiqitos Lagoon (Lots 13, 14, 15, 31, 32, 33 and 51). Irrigation runoff shall be directed away from the open space easement and the 100-foot wetland buffer adjacent to the Batiqitos Lagoon. Landscape plans shall indicate that the use of any native species shall be sourced from local suppliers providing locally grown species. <p>Lighting</p> <ul style="list-style-type: none"> The Homeowner's Association or property owner not subject to HOA regulations shall ensure that development lighting adjacent to the open space easement and the 100-foot wetland buffer adjacent to the Batiqitos Lagoon shall be directed away from and/or shielded so as not to illuminate these areas. <p>Predator Control</p> <ul style="list-style-type: none"> Permanent fencing protecting the proposed open space easement shall be maintained in perpetuity by the Homeowner's Association or property owner not subject to HOA regulations. Permanent fencing protecting the 100-foot wetland buffer adjacent to the Batiqitos Lagoon shall be maintained in perpetuity by the property owners of Lots 13 and 14. Permanent fencing along the open space easement and the 100-foot wetland buffer of the Batiqitos Lagoon should have no publicly accessible gates and shall be designed to prevent intrusion by pets. 		

Planning Commission Resolution 2019-08, Exhibit "C"

Potential Significant Impact	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>BIO-3 Prior to discretionary permit and construction permit issuance for development on Lots 13-15, 32, 33, and 51, conditions of approval and construction plans shall specify that all outdoor lighting shall be shielded with full-cutoff light fixtures and directed away from adjacent open space easement and the 100-foot wetland buffer adjacent to the wetland limits of the Batiquitos Lagoon. Construction plans shall also state that if nighttime work is necessary, night lighting shall be of the lowest illumination necessary for human safety, selectively placed, shielded and directed away from the lagoon and natural habitats.</p>	<p>Prior to discretionary and construction permit issuance</p>	<p>City of Encinitas Planning Division</p>
<p>Issue 3 The proposed project could have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.</p>	<p>Implement mitigation measures BIO-2 and BIO-3.</p>	<p>Prior to building permit issuance / Prior to discretionary and construction permit issuance</p>	<p>City of Encinitas Planning Division</p>
<p>Issue 4 The proposed project could interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impeded the use of native wildlife nursery sites.</p>	<p>Implement mitigation measure BIO-1.</p>	<p>Prior to and during construction activities</p>	<p>City of Encinitas Planning Division</p>
<p>Issue 6 The proposed project could conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</p>	<p>Implement mitigation measures BIO-2 and BIO-3.</p>	<p>Prior to discretionary and construction permit issuance / Prior to discretionary and construction permit issuance</p>	<p>City of Encinitas Planning Division</p>
Cultural Resources			
<p>Issue 2 The proposed project could</p>	<p>CUL-1 Due to the high potential for uncovering unknown subsurface</p>	<p>Prior to grading permit</p>	<p>City of Encinitas Planning</p>

Potential Significant Impact	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
<p>result in a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5. and/or</p> <p>Issue 5 Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:</p> <ul style="list-style-type: none"> o Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k); or o A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. 	<p>archaeological resources, including Native American tribal cultural resources, cultural resource mitigation monitoring shall be undertaken for any and all on-site and off-site ground disturbing activities. If on-site and/or off-site ground disturbing activities (e.g., exploratory trenching or excavations) are required for any informal or formal solicitation (written or spoken) of construction bids or similar requirements, all applicable requirements identified in mitigation measures CUL-2 to CUL-8 shall be undertaken by the applicant and/or owner.</p> <p>CUL-2 A Cultural Resource Mitigation Monitoring Program shall be conducted to provide for the identification, evaluation, treatment, and protection of any cultural resources that are affected by or may be discovered during the construction of the proposed project. The monitoring shall consist of the full-time presence of a qualified archaeologist and a traditionally and culturally affiliated (TCA) Native American monitor for, but not limited to, any clearing or grubbing of vegetation, tree removal, demolition and/or removal of remnant foundations, pavements, abandonment and/or installation of infrastructure; grading or any other ground disturbing or altering activities, including the placement of imported fill materials (note: all fill materials shall be absent of any and all cultural resources); and related road improvements, including, but not limited to, La Costa Avenue. Other tasks of the monitoring program shall include the following:</p> <ol style="list-style-type: none"> 1. The requirement for cultural resource mitigation monitoring shall be noted on all applicable construction documents, including demolition plans, grading plans, etc. 2. The qualified archaeologist and TCA Native American monitor shall attend all applicable pre-construction meetings with the Contractor and/or associated Subcontractors. 3. The qualified archaeologist shall maintain ongoing collaborative consultation with the TCA Native American monitor during all ground disturbing or altering activities, as identified above. 4. The qualified archaeologist and/or TCA Native American monitor may halt ground disturbing activities if archaeological artifact deposits or cultural features are discovered. In general, ground disturbing activities shall be directed away from these deposits for a short time to allow a determination of potential 	<p>issuance, during grading and excavation activities, and prior to building permit issuance</p>	<p>Division</p>

Potential Significant Impact	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>significance, the subject of which shall be determined by the qualified archaeologist and the TCA Native American monitor, in consultation with the San Luis Rey Band of Mission Indians ("San Luis Rey Band"). Ground-disturbing activities shall not resume until the qualified archaeologist, in consultation with the TCA Native American monitor, deems the cultural resource or feature has been appropriately documented and/or protected. At the discretion of the qualified archaeologist's, the location of ground disturbing activities may be relocated elsewhere on the project site to avoid further disturbance of cultural resources.</p> <p>5. The avoidance and protection of discovered unknown and significant cultural resources and/or unique archaeological resources is the preferable mitigation for the proposed project. If avoidance is not feasible a Data Recovery Plan may be authorized by the City as the lead agency under CEQA. If a data recovery is required, then the San Luis Rey Band shall be notified and consulted in drafting and finalizing any such recovery plan.</p> <p>6. The qualified archaeologist and/or TCA Native American monitor may also halt ground disturbing activities around known archaeological artifact deposits or cultural features if, in their respective opinions, there is the possibility that they could be damaged or destroyed.</p>		
	<p>CUL-3 Prior to the issuance of a grading permit, and subject to approval of terms by the City, the applicant or owner, and/or contractor shall enter into a Pre-Excavation Agreement with the San Luis Rey Band, or other TCA tribe. The purpose of this agreement shall be to formalize protocols and procedures between the applicant or owner, and/or contractor, and the San Luis Rey Band for the protection and treatment of, but not limited to, such items as Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through the cultural resource mitigation monitoring program in conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, soil surveys, grading, or any other ground disturbing activities.</p>		
	<p>CUL-4 Prior to the issuance of a grading permit, the applicant or owner, and/or contractor shall provide a written and signed letter to the</p>		

Potential Significant Impact	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>City's Director of Development Services, stating that a City-approved qualified archaeologist and a TCA Native American monitor have been retained at the applicant or owner and/or contractor's expense to implement the monitoring program, as described in the pre-excavation agreement. A copy of the letter shall be included in the grading plan submittals for the grading permit.</p> <p>CUL-5 Prior to any ground disturbing activities and/or the issuance of a grading permit and concurrent with any demolition activities within the project area, a Phase II archaeological assessment shall occur and be completed to determine the boundaries of CA-SDI-17,928 and Weston-01, and identify any additional potential negative impacts to subsurface tribal cultural resources that have not yet been identified due to safety conditions at the project area. The Phase II archaeological assessment shall be developed by the qualified archaeologist and the San Luis Rey Band of Mission Indians. All sacred sites, significant tribal cultural resources and/or unique archaeological resources encountered within the project area shall be avoided and preserved as the preferred mitigation, if feasible.</p> <p>CUL-6 Prior to the issuance of a grading permit, and in order for potentially significant archaeological artifact deposits and/or cultural resources to be readily detected during mitigation monitoring, a written "Controlled Grade Procedure" shall be prepared by a qualified archaeologist, in consultation with the TCA Native American monitor, the San Luis Rey Band, and the applicant or owner, subject to the approval of City representatives. The Controlled Grade Procedure shall establish requirements for any ground disturbing work with machinery occurring in and around areas the qualified archaeologist and TCA Native American monitor determine to be sensitive through the cultural resource mitigation monitoring process. The Controlled Grade Procedure shall include, but not be limited to, appropriate operating pace, increments of removal, weight and other characteristics of the earth disturbing equipment. A copy of the Controlled Grade Procedure shall be included in the grading plan submittals for the grading permit.</p> <p>CUL-7 Prior to the release of the grading bond, a Monitoring Report and/or Evaluation Report, which describes the results, analysis and conclusions of the cultural resource mitigation monitoring efforts (such as, but not limited to, the Research Design and Data Recovery Program) shall be submitted by the qualified archaeologist, along with</p>		

Potential Significant Impact	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
<p>Issue 3 The proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geological feature.</p>	<p>the TCA Native American monitor's notes and comments, to the City's Director of Development Services for approval.</p> <p>CUL-8 The landowner shall relinquish ownership of all tribal cultural resources collected during the cultural resource mitigation monitoring conducted during all ground disturbing activities, and from any previous archaeological studies or excavations on the project site to the San Luis Rey Band for respectful and dignified treatment and disposition, including reburial, in accordance with the Tribe's cultural and spiritual traditions. All cultural materials that are associated with burial and/or funerary goods will be repatriated to the Most Likely Descendant as determined by the Native American Heritage Commission per California Public Resources Code Section 5097.98.</p>		
<p>Issue 3 The proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geological feature.</p>	<p>CUL-9 Paleontological Data Recovery and Monitoring Plan: Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance, a Data Recovery and Monitoring Plan shall be prepared and implemented to the satisfaction of the City. The Plan shall document paleontological recovery methods.</p> <ol style="list-style-type: none"> 1. Prior to grading permit issuance, the project applicant shall implement a paleontological monitoring and recovery program consisting of the following measures, which shall be included on project grading plans to the satisfaction of the Development Services Department: <ol style="list-style-type: none"> a. The project applicant shall retain the services of a qualified paleontologist to conduct a paleontological monitoring and recovery program. A qualified paleontologist is defined as an individual having an M.S. or Ph.D. degree in paleontology or geology, and who is a recognized expert in the identification of fossil materials and the application of paleontological recovery procedures and techniques. As part of the monitoring program, a paleontological monitor may work under the direction of a qualified paleontologist. A paleontological monitor is defined as an individual having experience in the collection and salvage of fossil materials. b. The qualified paleontologist shall attend the project pre-construction meeting to consult with the grading and excavation contractors concerning the grading plan and paleontological field techniques. 	<p>Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance</p>	<p>City of Encinitas Planning Division</p>

Potential Significant Impact	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>c. The qualified paleontologist or paleontological monitor shall be on site on a full-time basis during the original cutting of previously undisturbed portions of the underlying very old alluvial deposits. If the qualified paleontologist or paleontological monitor ascertains that the noted formations are not fossil-bearing, the qualified paleontologist shall have the authority to terminate the monitoring program.</p> <p>d. If fossils are discovered, recovery shall be conducted by the qualified paleontologist or paleontological monitor. In most cases, fossil salvage can be completed in a short period of time, although some fossil specimens (such as a complete large mammal skeleton) may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) shall have the authority to temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner.</p> <p>e. If subsurface bones or other potential fossils are found anywhere within the project site by construction personnel in the absence of a qualified paleontologist or paleontological monitor, the qualified paleontologist shall be notified immediately to assess their significance and make further recommendations.</p> <p>f. Fossil remains collected during monitoring and salvage shall be cleaned, sorted, and catalogued. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall be deposited (as a donation) in a scientific institution with permanent paleontological collections such as the San Diego Natural History Museum.</p> <p>Prior to building permit issuance, a final summary report outlining the results of the mitigation program shall be prepared by the qualified paleontologist and submitted to the Development Services Department for concurrence. This report shall include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils, as well as appropriate maps.</p>		
Hazards and Hazardous Materials			
Issue 2	The proposed project could	HAZ-1 Prior to and during grading and excavation activities, the OCP-	City of Encinitas Planning

Potential Significant Impact	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
<p>create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.</p>	<p>impacted soil above the RSL-R for toxaphene shall be excavated and stockpiled on-site. The estimated area and depth of toxaphene-impacted soils requiring removal on the property are depicted in Figure 4 of the Property Mitigation Plan (PMP) (see Appendix 3.6b). Subsequent to excavation of the OCP-impacted soil, the soil encapsulation areas depicted in Figure 5 of the PCP shall be excavated with a 1:1 slope 7 feet outside of the building footprint down to approximately 7 feet below ground surface (bgs) with a 4-foot vertical wall to the depth of burial. Soils removed below the building footprint shall be stockpiled on-site for reuse as capping material. Once the excavation has reached the desired depth (anticipated to be 11 feet below the existing grade), the burial area shall be surveyed by the project land surveyor. The OCP-impacted soil shall then be placed in the base of the excavation and mechanically compacted to obtain a minimum relative compaction of 90 percent of the laboratory standard. The impacted soil shall be placed up to a depth not less than 7 feet below the designed finish grade of the building pads after remedial grading and import fill has been graded into the site. No OCP-impacted soil shall be placed beneath the planned backyards, roadways, or city easements.</p> <p>Following the placement of the OCP-impacted soil at the base of the excavation, a geotextile fabric or similar material shall be placed over the impacted fill. The project land surveyor shall then survey the location of the OCP-impacted fill to ensure that 7 feet of clean fill encapsulates the impacted soils prior to placing clean, compacted fill to finished grade.</p>	<p>grading and excavation activities</p>	<p>Division</p>
	<p>HAZ-2 Applicable provisions of the Property Mitigation Plan (Leighton and Associates, July 2017), including mitigation measure HAZ-1 above, shall be incorporated as part of the grading plans and implemented to the satisfaction of the City of Encinitas Development Services Department and the San Diego County Department of Environmental Health (DEH).</p>	<p>Prior to grading permit issuance and during grading</p>	<p>City of Encinitas Planning Division</p>

Planning Commission Resolution 2019-08, Exhibit "C"

Potential Significant Impact	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>HAZ-3 Prior to building permit issuance, a remediation summary report and closure request to the San Diego County DEH Voluntary Assistance Program and the City of Encinitas Development Services Department shall be prepared and submitted for review and approval. The closure request shall include the location of contaminants, excavated soil, and any on-site disposal of contaminated soils on cross-section and plan view figures. The closure request shall also include a discussion of remediation activities and any deviations from the approved work plan.</p>	<p>Prior to building permit issuance</p>	<p>City of Encinitas Planning Division</p>
	<p>HAZ-4 Prior to building permit issuance, a "Closure Letter" issued by the San Diego County DEH to the City of Encinitas Development Services Department and Public Works Department shall be prepared and submitted.</p>	<p>Prior to building permit issuance</p>	<p>City of Encinitas Planning Division</p>
	<p>HAZ-5 Prior to building permit issuance, the project applicant shall record a covenant against all parcels on the project site having buried contaminated soils. The covenant shall include the approved remediation summary report and closure letter as approved by the San Diego County DEH. The covenant shall be reviewed and approved by the Development Services Department prior to recordation.</p>	<p>Prior to building permit issuance</p>	<p>City of Encinitas Planning Division</p>
Traffic and Circulation			
<p>Issue 1 The proposed project could potentially cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections).</p>	<p>TRA-1 La Costa Avenue at Seabreeze Court. Improve La Costa Avenue between Seabreeze Court and I-5 as depicted in Figure 3.10-1 of the EIR.</p>	<p>During project construction and prior to issuance of a certificate of occupancy</p>	<p>City of Encinitas Engineering and Planning Divisions</p>
<p>Issue 2 The proposed project could potentially exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways.</p>	<p>Implement mitigation measure TRA-1.</p>	<p>During project construction</p>	<p>City of Encinitas Engineering and Planning Divisions</p>