

CC Resolution No. 2022-xx – Exhibit XX
Marea Village Mixed Use Development Project

MITIGATION MONITORING AND REPORTING PROGRAM
(SCH #2021020272)

June 2022

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Mitigation Monitoring and Reporting Program

Marea Village Mixed Use Development Project

Case No.: MULTI-003780-2020; CDP-3788-2020; BADJ-3787-2020; DR-3786-2020

State Clearinghouse (SCH) No. 2021020272

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I. INTRODUCTION

This document is the Mitigation Monitoring and Reporting Program (MMRP) for the Marea Village Mixed-Use Development 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.”

II. MITIGATION MONITORING AND REPORTING PROGRAM

As the lead agency, the City of Encinitas (City) 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.

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Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
Biological Resources		
<p>BIO-1 Preconstruction General Avian, Raptor, and Least Tern Survey, and California Least Tern Monitoring. If the project construction occurs during the raptor and avian nesting season (raptor nesting season begins January 15; migratory bird nesting begins February 15; all raptor and avian nesting activity typically ceases by September 15), a qualified avian biologist with expertise monitoring least terns shall conduct a preconstruction nesting activity survey for migratory birds, raptors, and least terns on the project site and within 100 feet. The surveys shall be conducted no more than 3 days prior to commencement of construction activities. The qualified biologist will also examine the project survey area for all signs of least terns (e.g., nesting scrapes and/or nests). Impacts to California least tern shall be fully avoided. The qualified biologist shall be on-site during all construction activities between April 1 and September 15 to verify that least terns are not flying to or over the site during the day or roosting on the site at night. Any modification to the monitoring frequency and duration shall first be approved by the Wildlife Agencies prior to implementing the change. If least terns are observed flying over the site during construction hours or roosting on the site, avoidance measures (e.g. changing construction hours, staging equipment throughout the site) shall be implemented to deter terns from flying over and landing on the site and ensure the project's impacts on least terns remain less than significant. If California least terns occupy and nest on the site, construction within at least 500 feet or a suitable distance as determined by the qualified least tern biologist shall be delayed until any tern nests have gone to completion and the young have fledged and are no longer dependent on the project site for roosting. The monitoring biologist shall provide documentation of any findings to the City.</p> <p>Impacts to other nesting bird species shall also be avoided. If nesting birds are discovered during the preconstruction surveys or during construction, then avoidance measures will be undertaken and adequate buffers for each of the species will be established until the juveniles have fledged and there has been no evidence of a second attempt at nesting. The monitoring biologist will monitor any nests and provide documentation to the City.</p> <p>BIO-2 Preconstruction Bat Monitoring. If construction occurs during bat maternity season (March 1 through September 30), a qualified bat biologist shall conduct bat surveys which include a combination of sampling, exit counts, and acoustic surveys, to determine if bats are occupying palm trees or vacant structures. If bat surveys are negative, palm tree removal and building</p>	Prior to and during project construction activities	City of Encinitas Planning Division

Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
demolition shall commence within three days after the survey. If bat surveys are positive, palm tree removal and building demolition shall be postponed until such time as the qualified bat biologist determines bats are no longer present.		
Cultural Resources		
<p>CR-1 Cultural Resources Monitoring Program. 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 shall be retained to monitor all ground-disturbing activities associated with project construction, including vegetation removal, clearing, grading, trenching, excavation, or other activities that may disturb original (pre-project) ground, including the placement of imported fill materials and related roadway improvements (i.e., for access).</p> <ul style="list-style-type: none"> • The requirement for cultural resource mitigation monitoring shall be noted on all applicable construction documents, including demolition plans, grading plans, etc. • The qualified archaeologist and TCA Native American monitor shall attend all applicable pre-construction meetings with the Contractor and/or associated Subcontractors. • The qualified archaeologist shall maintain ongoing collaborative consultation with the TCA Native American monitor during all ground disturbing or altering activities, as identified above. • 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. 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 qualified archaeologist's discretion, the location of ground disturbing activities may be relocated elsewhere on the project site to avoid further disturbance of cultural resources. 	Prior to and during project construction activities	City of Encinitas Planning Division

Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
<ul style="list-style-type: none"> 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 Plan is required, then the TCA Native American monitor shall be notified and consulted in drafting and finalizing any such recovery plan. 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. 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 TCA Native American Tribe 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>CR-2 Prepare Monitoring Report and/or Evaluation Report. 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 Development Services Director for approval.</p> <p>CR-3 Identification of Human Remains. As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office by telephone. No further excavation or disturbance of the discovery or any nearby area reasonably suspected to overlie adjacent remains (as determined by the qualified archaeologist and/or the TCA Native American monitor) shall occur until the Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code 5097.98. If such a discovery occurs, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected (as determined by the qualified archaeologist and/or the TCA Native</p>		

Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
<p>American monitor), and consultation and treatment could occur as prescribed by law. As further defined by state law, the Coroner would determine within two working days of being notified if the remains are subject to his or her authority. If the Coroner recognizes the remains to be Native American, he or she shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC would make a determination as to the Most Likely Descendent. If Native American remains are discovered, the remains shall be kept in situ ("in place"), or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on-site in the presence of the TCA Native American monitor.</p>		
Energy Conservation and Climate Change		
<p>GHG-1 Purchase and Retire Greenhouse Gas (GHG) Offsets. The applicant shall purchase and retire 18,739 metric tons of carbon dioxide equivalent (MTCO₂e) greenhouse gas offsets to reduce the project's GHG emissions level to 2.7 MTCO₂e per service population per year, consistent with the performance standards and requirements set forth below.</p> <ul style="list-style-type: none"> The GHG offsets shall be secured from an accredited registry that is approved by the California Air Resources Board (CARB), or from an emissions reduction credits program that is administered by CARB. The GHG offsets shall be secured from an accredited registry that uses a CARB-approved protocol which meets the requirements of California Code of Regulations, Title 17, §95972(a). The GHG offsets shall be real, permanent, quantifiable, verifiable, and enforceable, as those terms are defined in Health & Safety Code §38562(d)(1) and (2) and California Code of Regulations, Title 17, §95802. Carbon offset credits can result from activities that reduce, avoid, destroy or sequester an amount of GHG emissions in an off-site location to offset the equivalent amount of GHG emissions occurring elsewhere. For the purpose of Project mitigation, carbon offset credits shall consist of direct emission reductions or sequestration that are used to offset the Project's direct emissions. As described in CARB Determination for State Assembly Bill 734, all carbon offset credits shall be purchased from a carbon offset registry which is approved by CARB and uses CARB-approved protocols, which at present include the following: the American Climate Registry, Climate Action Reserve, and Verra (formerly Verified Carbon Standard). The carbon offset credits shall be verifiable by the City and enforceable in accordance with the registry's applicable standards, practices, or protocols. The carbon 	Prior to issuance of certificate of occupancy	City of Encinitas Planning Division

Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
<p>offsets must substantively satisfy all six of the statutory “environmental integrity” requirements applicable to the CARB Cap-and-Trade Program, generally as set forth in both subdivisions (d)(1) and (d)(2) of California Health and Safety Code §38562: real, permanent, quantifiable, verifiable, enforceable, and additional. All offset credits shall be verified by an independent verifier who meets stringent levels of professional qualification (i.e., American National Standards Institute National Accreditation Board Accreditation Program for Greenhouse Gas Validation/Verification Bodies or a Greenhouse Gas Emissions Lead Verifier accredited by CARB), or an expert with equivalent qualifications to the extent necessary to assist with the verification. Without limiting the generality of the foregoing, in the event that an approved registry becomes no longer accredited by CARB and the offset credits cannot be transferred to another accredited registry, the project applicant shall comply with the rules and procedures for retiring and/or replacing offset credits in the manner specified by the applicable protocol or other applicable standards including (to the extent required) by purchasing an equivalent number of credits to recoup the loss.</p> <ul style="list-style-type: none"> • <i>Geographic Location:</i> Carbon offset credits shall be obtained from GHG reduction projects that occur in the following locations in order of priority: (1) off-site within the neighborhood surrounding the project site, including Encinitas; (2) the greater North County community; (3) within the San Diego County Air Basin; (4) the State of California; and (5) the United States. For offset credits from projects outside the State of California, the applicant shall demonstrate in writing to the satisfaction of the City that the offset project meets requirements equivalent to or stricter than California’s laws and regulations for ensuring the validity of offset credits. • Any offset credits used for mitigation are subject to the approval of the City. Contracts for purchase of credits shall be entered into prior to issuance of a certificate of occupancy for each building and the applicant shall provide the third-party verification report concerning those credits, and the unique serial numbers of those credits showing that they have been retired. The City shall confirm receipt of the verification reports and serial numbers prior to issuance of a certificate of occupancy. 		

Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
Geology and Soils		
<p>GEO-1 Paleontological Data Recovery and Monitoring Plan. A Data Recovery and Monitoring Plan shall be prepared 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 MS or PhD 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 preconstruction 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 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. 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>Prior to issuance of grading permit; During construction</p>	<p>City of Encinitas Planning Division</p>

Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
<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>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.</p>		
Hazards and Hazardous Materials		
<p>HAZ-1 Prior to demolition permit issuance, an asbestos and lead material survey shall be conducted by a qualified consultant to determine if the existing structures on-site contain lead-based paint and/or asbestos-related construction materials. If substances containing lead and/or asbestos are found on-site, an abatement work plan shall be prepared by the consultant for the proper removal and disposal of the materials in accordance with federal, state, and local laws and regulations. The asbestos and lead survey results and any necessary work plan shall be reviewed and approved by the City of Encinitas Development Services Department (Planning Division).</p> <p>HAZ-2 If on-site abatement of asbestos and/or lead materials is required, a licensed abatement contractor shall implement the approved abatement work plan prior to demolition of affected structures.</p> <p>HAZ-3 Prior to building permit issuance, an abatement close-out report shall be prepared by the abatement contractor and submitted by the project applicant to the Development Services Department for review and approval.</p>	<p>Prior to issuance of demolition permit; Prior to issuance of building permit</p>	<p>City of Encinitas Planning Division</p>

Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
Noise		
<p>NOI-1 Implement Vibration Control Measures During Construction. The project applicant shall incorporate the following measures on all grading and building plans and specifications subject to approval of the City of Encinitas prior to issuance of a demolition or grading permit (whichever occurs first):</p> <ul style="list-style-type: none"> The project applicant shall utilize a construction vibration monitoring system with the potential to measure low levels of vibration. The applicant shall adjust the vibration frequency settings of the equipment to ensure vibration levels do not exceed the 0.2 inch-per-second PPV threshold at the residential buildings located to the west of the project site. The project applicant shall conduct sensitivity training to inform construction personnel about the existing sensitive receptors surrounding the project and about methods to reduce noise and vibration. 	Prior to issuance of grading or building permit; Prior to and during project construction	City of Encinitas Planning Division
Transportation		
<p>TR-1 The following Transportation Demand Measures (TDMs) shall be implemented to further reduce potential effects relative to vehicle miles traveled:</p> <ul style="list-style-type: none"> Voluntary employer commute program. Employers to provide information about the SANDAG's iCommute program (www.icommutesd.com) and encourage carpooling. Develop and/or promote bicycle usage through a bikeshare program to help reduce vehicle usage and demand for parking by providing users with on-demand access to bikes for short-term rental, contribute to electric bicycle charging stations, contribute to bicycle infrastructure improvements, and disseminate a bicycle riders guide to make it easier for people to bike and walk to work. Provide pedestrian improvements, such as a connection to the hotel to the north. Provide information about maps, routes, and schedules for public transit. 	During project operations	City of Encinitas Planning Division
Tribal Cultural Resources		
Implement mitigation measures CR-1 to CR-3 .	Prior to and during project construction activities	City of Encinitas Planning Division