

RESOLUTION PC 24-5097

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS CERTIFYING A FINAL ENVIRONMENTAL IMPACT REPORT FOR A 67,410 SQUARE FOOT LIGHT INDUSTRIAL BUILDING ON A VACANT SITE IN THE LIGHT INDUSTRIAL (L-I) ZONE.

EIR23-006
Hughes SMCC, LLC

WHEREAS, on March 16, 2022, the City received an application from Hughes SMCC, LLC requesting a Site Development Plan to allow the construction of a 67,410-square-foot light industrial building on a 10.46-acre site located on the northeast side of S. Pacific Street, approximately 750 feet south of Linda Vista Drive in the Business/Industrial District (Project); and

WHEREAS, the Project requires approval of a discretionary action by the City, which is subject to compliance with the California Environmental Quality Act (Public Resources Code Sections 21000 et. seq) (CEQA), the California Guidelines for the Implementation of CEQA (14 Cal. Code of Regs. Sections 15000-15387) (State CEQA Guidelines), and the City's environmental review ordinance (San Marcos Municipal Code Chapter 18.04) (City CEQA Guidelines); and

WHEREAS, the City is the lead agency, as defined by CEQA and the State CEQA Guidelines, responsible for the preparation, consideration and approval of environmental documents for the Project; and

WHEREAS, on March 9, 2023, the City held an Environmental Impact Report (EIR) Scoping Meeting to provide an overview of the project Notice of Preparation, in accordance with CEQA Guideline Section 15083, and Public Workshop with the general public; and

WHEREAS, the City prepared, or caused to be prepared, an Environmental Impact Report (EIR) to assess the Project in conformance with CEQA; and

WHEREAS, the Draft EIR was available to the general public and other public agencies for a 45-day review and comment period from December 21, 2023 to February 5, 2024; and

WHEREAS, the City received six comment letters on the Draft EIR from private entities and public agencies; and

WHEREAS, the City issued a Final Environmental Impact Report (EIR23-006, State Clearinghouse No. 2023020497 (Final EIR)) on April 15, 2024, incorporating the December 2023 Draft EIR; comments and recommendations received by the City on the Draft EIR, either verbatim or in summary, and a list of private individuals or entities and public agencies that submitted comments; City responses to significant environmental points raised in the review and consultation process; modifications made to the text of the Draft EIR that are also included in the Final EIR; and appendices to the Draft and Final EIRs; and

WHEREAS, the Final EIR evaluates the possible environmental impacts of the proposed Site Development Plan (SDP22-0002); and

WHEREAS, to the extent authorized by law, the City desires and intends to use the Final EIR and the documents incorporated by reference therein, to comply with the environmental documentation requirements pursuant to CEQA, the State CEQA Guidelines and the City CEQA Guidelines for each of the above-referenced discretionary actions for the Project; and

WHEREAS, the City prepared the Findings of Fact as specified in Exhibit A in accordance with CEQA and the State CEQA Guidelines and San Marcos Municipal Code Chapter 18.04 (City CEQA Guidelines); and

WHEREAS, the Planning Commission is responsible pursuant to San Marcos Municipal Code Chapter 18.04 for reviewing and certifying the Final EIR if prepared in compliance with all applicable requirements; and

WHEREAS, the required public hearing held on April 15, 2024 was duly noticed and held in the manner prescribed by law.

NOW, THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct, and they are hereby incorporated by reference into this Resolution.
- B. The Final EIR concludes that the Project would have direct and/or cumulative impacts in the following areas which can be reduced to less than significant levels with implementation of the mitigation measures in the Final EIR:
 1. Biological Resources (impacts to sensitive habitat and sensitive species)
 2. Cultural Resources (unknown cultural resources during project grading)
 3. Tribal Cultural Resources (unknown cultural resources during project grading)
 4. Geology and Soils (unknown impacts to paleontological resources during grading)
- C. The Final EIR indicates that the Project would have no impact or less than significant impacts in the following areas without the implementation of mitigation measures:
 1. Aesthetics
 2. Agricultural and Forestry Resources
 3. Air Quality
 4. Energy
 5. Greenhouse Gas Emissions

6. Hazards and Hazardous Materials
 7. Hydrology and Water Quality
 8. Land Use and Planning
 9. Mineral Resources
 10. Noise
 11. Population and Housing
 12. Public Services
 13. Recreation
 14. Utilities and Service Systems
 15. Wildfire
- D. The Final EIR indicates the Project will have significant and unavoidable impacts on the environment in the following areas after all feasible mitigation measures recommended in the Final EIR are implemented:
1. Transportation (Vehicle Miles Traveled (VMT), due to impacts remaining following exhaustion of feasible mitigation measures.
- E. The Final EIR reflects the independent judgment of the City, as required by Section 21082.1(c)(3) of CEQA; and
- F. The Final EIR was prepared and completed in compliance with CEQA and all applicable requirements, as required by Section 15090 of the State CEQA Guidelines, including the Findings of Facts to be considered.
- G. Upon consideration of the Finding of Facts, together with the staff report (copies of which are on file in the Planning Division), public testimony presented at the Planning Commission hearing, and all other oral and written evidence received by the City on this Project, the Planning Commission hereby certifies the Final EIR.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of San Marcos, California, at a regular meeting thereof, held on this 15th day of April, 2024, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Fatima Rios, Chairperson

ATTEST:

Gina Jackson, Senior Office Specialist

Attachment(s):

Exhibit A –Findings of Fact and Statement of Overriding Considerations

**EXHIBIT A
RESOLUTION PC 24-5097
EIR 23-006**

California Environmental Quality Act (CEQA) Findings and Statement of Overriding Considerations Regarding Significant Effects for the Hughes SMCC, LLC Project

**SDP22-0002
SCH No. 2023020497**

The City of San Marcos has prepared an Environmental Impact Report (EIR) for the proposed Hughes Circuits Project (Project) in compliance with the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 *et seq.*) and the State CEQA Guidelines (14 California Code of Regulations Section 15000 *et seq.* as amended).

FINAL EIR EVALUATION

The Final EIR evaluated potential effects for the following environmental areas of potential concern: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and Wildfire.

The Final EIR identified no impact or less than significant impacts related to Aesthetics, Air Quality, Energy, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Population and Housing, Public Services, Recreation, Utilities and Service Systems, and Wildfire.

The Final EIR identified potentially significant environmental effects related to Biological Resources (potential for project construction activities to cause disturbances that would result in impacts to special status species, riparian habitats and sensitive natural communities, and jurisdictional wetlands and waterways); Cultural Resources (unknown cultural resources during project excavation); Geology and Soils (potential for project excavation to adversely impact paleontological resources); Transportation (exceed VMT per employee threshold); and Tribal Cultural Resources (potentially impact unknown tribal cultural resources during project construction).

The Final EIR determined that the potentially significant environmental impacts have been reduced to less than significant levels with implementation of the mitigation measures, with exception of transportation impact which are significant, and unavoidable, and hereby recommended to the Planning Commission for certification pursuant to CEQA with adoption of the Mitigation Monitoring and Reporting Program designed to ensure compliance with mitigation measures throughout implementation of the project, and Findings Regarding Significant Effects and Statement of Overriding Considerations.

Public Resources Code Section 21081 and CEQA Guidelines Section 15091 require that the City of San Marcos, as lead agency for this project, prepare written findings for any identified significant

effects, accompanied by a brief explanation of the rationale for each finding. The possible findings under CEQA and the CEQA Guidelines are:

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate, avoid or substantially lessen the significant effects on the environment.
- (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 provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR.

Pursuant to Public Resources Code Section 21081(b) and State CEQA Guidelines Section 15091(a)(3), the City finds that the project will have significant and unavoidable impacts to transportation (exceed VMT per employee threshold) after all feasible mitigation measures recommended in the Final EIR are implemented. The City finds that for each of the significant effects identified in the Final EIR, changes or alterations (mitigation measures) have been required in, or incorporated into, the project which will avoid or substantially lessen each of the significant environmental effects identified in the Final EIR. The significant effects (impacts) and mitigation measures are stated fully in the Final EIR. The rationale for this finding for each impact is discussed below.

The official custodian of the documents and other materials that constitute the record of proceedings is:

City of San Marcos Development Services Department, Planning Division
1 Civic Center Drive
San Marcos, CA 92069

Copies of all these documents, which constitute the record of proceedings upon which the City's decision is based, are, and at all relevant times have been, available upon request at the offices of the City, the custodian for such documents.

PROJECT DESCRIPTION

The approximately 10.46-acre project site is located in the undeveloped northeast corner of South Pacific Street and South Pacific Street within the City of San Marcos, California. The Project Site is comprised of Assessor's Parcel Numbers (APNs) 219-223-20-00 and 219-223-22-00.

The following project approval is needed to authorize development of the light industrial development within the project site: Site Development Plan. The Site Development Plan provides a means to review proposed documents to ensure: 1) compliance with City requirements; 2) sound design practices; 3) proper facilities and rights-of-way are provided; and 4) compliance with design guidelines for multiple residential, office, commercial, and industrial areas.

The project would include a 67,410-square foot light industrial building on the 10.46-acre project site. The light industrial building includes a 56,310 SF first floor, and a 11,100 SF mezzanine. The proposed project would include a fire control room, MPOE room, trash enclosure, outdoor amenity area, electrical room, and grade level loading docks. Parking for the proposed building would include 72 parking spaces, including 4 electric vehicle charging stations, 9 carpool and zero emission parking stalls, 4 accessible stalls, and 1 U.S. Postal Service parking stall. Additionally, 4 short-term bicycle parking spaces and 4 long-term bicycle parking spaces would be provided. The project would include two points of entry off South Pacific Street, the first located at the northwest boundary of the project site and the other off the southeastern boundary. These facilities will either provide a direct connection to the project, via a project driveway, or will provide a critical link between the project and regional transportation network. One external public roadway provides access to the project site. South Pacific Street forms the project site's southern and western boundary. Parking for the proposed building would include 72 parking spaces, including 4 electric vehicle (EV) charging stations, 3 EV-ready parking spaces, 9 clean air vehicle parking stalls, 5 accessible stalls, and 1 U.S. Postal Service parking stall. Additionally, 4 short-term bicycle parking spaces and 4 long-term bicycle parking spaces would be provided. The proposed project would also include, at a minimum, 9,700 square-feet of solar PV panels, consistent with the City's CAP.

The proposed light industrial building would be located at the western-most portion of the project site, and the disturbance area associated with project construction would be limited to approximately 113,877 SF or 2.61 acres of the 10.46-acre project site. Proposed development would only occur within Assessor's Parcel Number 219 223 20 00.

For the purposes of analysis, it was assumed that construction of the proposed project would last approximately 12 months. It is expected that the proposed grading will generate approximately 4,590 cubic yards of cut and 21,290 cubic yards of fill, resulting in balanced earthwork that does not require any import or export of dirt. It is anticipated that off-site improvements would occur concurrently with the construction on the project site. Construction would require the use of typical construction equipment, including dozers, tractors, excavators, graders, pavers, rollers, and air compressors.

Fire service for the proposed project would be provided by the San Marcos Fire Department. Water and wastewater service for the proposed project would be provided by VWD.

The proposed project's overall design will meet California's Green Building Standards Code (CALGreen; California Code of Regulations, Title 24, Part 11), which requires implementation of energy efficient light fixtures and building materials. The Project would install four electric vehicle charging stations in the common use parking lot several bicycle parking spaces would be provided throughout the site. Furthermore, the project will comply with the 2022 Building Energy Efficiency Standards (CBC Title 24, Part 6), which requires newly constructed buildings to meet energy performance standards set by the California Energy Commission.

All construction activities will comply with San Marcos Municipal Code Chapter 10.24.010 and 17.32.180. The project is processing the following entitlements:

- Site Development Plan – A Site Development Plan is Required to demonstrate specific lot configurations for the project site.

PROJECT OBJECTIVES

The City identified project objectives to develop a reasonable range of alternatives to analyze within the Final EIR. The objectives for the proposed Project are:

1. Expand the existing Hughes Circuits facilities to a nearby location for ease of continued operation and access
2. Concentrate non-residential uses near existing roadways, highways, and freeways in an effort to isolate and reduce any potential environmental impacts related to truck traffic congestion, air emissions, and industrial noise to the greatest extent feasible.
3. Develop a fiscally sound and employment-generating land use that maximizes the use of the light-industrial zoned area.
4. Restore, manage, and conserve sensitive onsite biological resources, to the extent feasible, while accommodating and maximizing development on-site consistent with the General Plan land use and zoning designation.
5. Promote infill development and develop a site that is served by existing utilities, services, and street access.

These objectives have been considered in preparing the findings discussed below.

Section I Findings Regarding Certification of Final EIR

Pursuant to CEQA and the State CEQA Guidelines, the Planning Commission of the City of San Marcos as the lead agency under CEQA is responsible for certification of the EIR and therefore makes the following findings:

1. The Planning Commission has reviewed and considered the information in the Final EIR, which has been completed in compliance with CEQA;
2. The Final EIR reflects the City's, as lead agency, independent judgment and analysis; and,
3. The Planning Commission adopts the Mitigation Monitoring and Reporting Program (Attachment A) to reduce or avoid the significant and mitigable impacts of the project.

Any finding made by the City shall be deemed made, regardless of where it appears in this document. All of the language included in this document constitutes findings by the City, whether or not any particular sentence or clause includes a statement to that effect. The City intends that these findings be considered as an integrated whole and, whether or not any part of these findings fail to cross-reference or incorporate by reference any other part of these findings, that any finding required or committed to be made by the City with respect to any particular subject matter of the Final EIR, shall be deemed to be made if it appears in any portion of these findings.

Section II Environmental Effects Found Not to be Significant

The Final EIR determined, based upon substantial evidence in the record, the following impacts associated with the project are less than significant and no mitigation is required: Aesthetics, Air Quality, Energy, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Population and Housing, Public Services, Recreation, Utilities and Service Systems, and Wildfire. The Final EIR summarizes impacts that were found to be insignificant in Chapters 3 and 5. The City adopts the Final EIR's determination of insignificance and no further findings are required for the impacts found to be insignificant.

Section III Environmental Effects Mitigated to Below a Level of Significance

Pursuant to Section 21081(a) of the Public Resources Code and Section 15091(a)(1) of the State CEQA Guidelines, the City finds that, for each of the following significant effects identified in the Final EIR, changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the identified significant effects on the environment to less than significant levels. The significant effects and mitigation measures are stated fully in the Final EIR and each of the mitigation measures have been imposed. These findings are explained below and are supported by substantial evidence in the record of proceedings.

BIOLOGICAL RESOURCES

The proposed project will result in potentially significant impacts related to the potential for project construction activities to cause disturbances that would result in impacts to adjacent habitats, and the potential for construction activities to result in indirect impacts to nesting birds.

Mitigation Measures: The project includes mitigation measures in the MMRP that is to be adopted concurrently with these findings.

All biological resource impacts and mitigation measures are detailed in Attachment A at the end of this document. Implementation of Mitigation Measure MM-BIO-1 would reduce impacts to sensitive vegetation by preserving 7.85 acres of sensitive upland and wetland vegetation on-site. Mitigation measure MM-BIO-2 would reduce impacts to onsite habitats by removing and restoring invasive species, vernal pool restoration, and developing a habitat restoration plan. Mitigation Measure MM-BIO-3 would reduce impacts to native habitats by not planting exotic plant species that may be invasive. Mitigation Measure MM-BIO-4 would reduce impacts to adjacent habitats by fencing the limits of the project impact footprint and installing other appropriate sediment trapping devices. Mitigation Measure MM-BIO-5 would reduce impacts to native species by implementing a Workers Environmental Awareness Training Program. Mitigation Measure MM-BIO-6 would reduce impacts to native species due to construction taking place out of breeding season. Mitigation Measure MM-BIO-7 would reduce impacts to adjacent habitats by requiring construction to abide by City standards. MM-BIO-8 would reduce impacts to sensitive vegetation and species by ensuring best management practices are implemented during construction. MM-BIO-9 would reduce impacts to sensitive species by implementing a qualified biological monitor during initial construction. MM-BIO-10 would reduce impacts to California gnatcatchers by implementing surveys prior to construction. MM-BIO-11 would reduce impacts to California gnatcatchers by implementing specific nest avoidance and minimization measures. MM-BIO-12

would reduce impacts to migratory birds by conducting nesting bird surveys. MM-BIO-13 would reduce impacts by ensuring the proper permits have been obtained.

Implementation of Mitigation Measures MM-BIO-1 through MM-BIO-13 would reduce potential impacts to biological resources to a level below significance.

In order to mitigate potential impacts to sensitive biological resources (Impact BIO-1, Impact BIO-2, and Impact BIO-3), implementation of the following mitigation measures will be required:

MM-BIO-1 **On-Site Preservation.** Impacts to sensitive vegetation shall be mitigated through the on-site preservation of 7.85 acres of sensitive upland and wetland vegetation. The project shall result in the preservation of 7.09 acres of sensitive upland vegetation communities and 0.76 acres of wetland vegetation communities (which includes 0.02 acres of restored areas per MM-BIO-2). A land manager shall be identified to ensure that the project is managed and protected in perpetuity. A conservation easement for the 7.85 acres shall be recorded prior to the issuance of a grading permit or other timing agreed upon by the Planning Division Director or their designee.

MM-BIO-2 **Onsite Habitat Restoration.** Onsite habitat restoration will consist of the removal and restoration of invasive species, vernal pool restoration, and development of a habitat restoration plan.

Invasive Species Removal. The 0.02 acres of tamarisk scrub will be restored to native emergent wetland habitat through the removal of the tamarisk and other non-native plant species. Tamarisk will be cut and stump treated with herbicide, and the other non-native species will be removed with a combination of herbicide application, mowing (line trimmers), and hand weeding. With the removal of those invasive species, the site will be planted and seeded to establish native emergent wetland species found onsite, including but not limited to pale spikerush, Mexican rush, iris-leaf rush, alkali mallow (*Malvella leprosa*), and pickleweed.

Vernal Pool Restoration. Vernal pool restoration will include some minor recontouring of the existing vernal pool basin where appropriate, mostly where vernal pools have been altered by road ruts, trail berms, and other past disturbances to the site. Any recontouring will avoid impacts to existing vernal pools and existing sensitive species and is intended to develop new pools or to expand pools from existing locations. Along with this minor recontouring, weed control will also be conducted in the vernal pools and surrounding watershed areas. Weed control will consist of a combination of herbicide application, mowing (line trimmers), and hand weeding. Vernal pools on site that are low in diversity, particularly those at the south end of the project, will be planted and seeded with vernal pools species known

from the site. Seed collected for this purpose will come from onsite sources only. This will include, but is not limited to San Diego button celery, spreading navarretia, pale spikerush, annual coast plantago (*Plantago elongata*), aquatic pygmy plant (*Crassula aquatica*), toad rush (*Juncus bufonius*), smooth boisduvalia (*Epilobium campestris*), and wooly marbles (*Psilocarphus brevissimus*). Mitigation will not occur within the San Diego County Water Authority owned parcels. The project applicant will consult with the U.S. Fish and Wildlife Service to ensure that the mitigation plan does not impact listed species.

Habitat Restoration Plan. The applicant shall prepare a conceptual habitat restoration plan outlining the restoration described above. Upon approval a 5-year implementation effort would follow the plan, including topographic reconstruction, weed control, seeding, container planting, irrigation, and a program of monitoring and reporting.

The restoration plan shall be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. The plan should include, at a minimum: (a) a description of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control non-native vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. As part of the mitigation planning a PAR-like cost evaluation will be developed and approved by USFWS to help determine long term costs in the endowment required to support those costs. The applicant is required to fund the endowment before the issuance of grading permits, and the endowment agreement shall be approved by USFWS.

MM-BIO-3

Landscaping. The applicant shall ensure that development landscaping adjacent to on- or off-site habitat does not include exotic plant species that may be invasive to native habitats. Exotic plant species not to be used include any species listed on the California Invasive Plant Council's (Cal-IPC) "Invasive Plant Inventory" List. In addition, landscaping should not use plants that require intensive irrigation, fertilizers, or pesticides adjacent to preserved lands and water runoff from landscaped areas should be directed away from the biological conservation easement area and contained and/or treated within the development footprint. The applicant shall ensure that development lighting adjacent to all on- or offsite habitat

shall be directed away from and/or shielded so as not to illuminate native habitats.

MM-BIO-4 **Temporary Installation Fencing.** The project applicant shall temporarily fence the limits of the project impact footprint and install other appropriate sediment trapping devices to prevent additional impacts to, and the spread of silt from the construction zone into, adjacent habitats to be avoided. Fencing and sediment trapping devices will be installed in a manner that does not impact habitats to be avoided.

If work occurs beyond the fenced limits of impact, all work will cease until the problem has been remedied to the satisfaction of the City. Any habitat impacts that occur beyond the authorized work will be offset at ratios approved by the City. Temporary construction fencing and sediment trapping devices will be removed upon project completion.

MM-BIO-5 **Environmental Awareness Training.** A Workers Environmental Awareness Training Program shall be implemented with the contractor and all active construction personnel prior to construction to ensure knowledge of sensitive wildlife which may occur onsite including coastal California gnatcatcher and least Bell's vireo, their habitat, and general compliance with environmental/permit regulations and mitigation measures.

At a minimum, training will include a discussion of the following topics: (1) the purpose for resource protection; (2) a description of the coastal California gnatcatcher and least Bell's vireo and their habitat; (3) descriptions of the special-status plants and their habitat, (4) the MMs outlined in this report that should be implemented during project construction to conserve the sensitive resource, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); (4) environmentally responsible construction practices; (5) the protocol to resolve conflicts that may arise at any time during the construction process; and, (6) the general provisions of the FESA and California Endangered Species Act (CESA), the need to adhere to the provisions of the FESA and CESA, and the penalties associated with violating the FESA and CESA.

MM-BIO-6 **Breeding Season Avoidance.** The removal of coastal sage scrub and wetland vegetation from the project impact footprint will occur from September 1 to February 14 to avoid the bird breeding season. Further, to the maximum extent practicable, grading activities associated with construction of the project will occur from September 1 to February 14 to avoid the breeding season. If project construction must occur during the breeding season, MM-BIO-10 and MM-BIO-11 will be implemented.

MM-BIO-7 **Work Hours.** Project construction will occur during daylight hours. However, if temporary night work is required, night lighting shall abide by

city standards and shall be, selectively placed, shielded, and directed away from natural habitats.

MM-BIO-8

Construction Best Management Practices. The project applicant will ensure that the following conditions are implemented during project construction in order to minimize potential impacts to sensitive vegetation and species:

1. Employees will strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint;
2. To avoid attracting predators, the project site will be kept as clean of debris as possible. All food related trash items will be enclosed in sealed containers and regularly removed from the site;
3. Pets of project personnel will not be allowed on the project site; and,
4. Impacts from fugitive dust will be avoided and minimized through watering and other appropriate measures consistent with the Construction General Permit Order 2009-009-DWQ.

MM-BIO-9

Biological Monitor Requirements and Duties. A qualified biologist will be on site daily during initial clearing/grubbing and weekly during grading activities within 500 feet of coastal California gnatcatcher and least Bell's vireo habitat to ensure compliance with all project-imposed mitigation measures. The biologist will be available during pre-construction and construction phases to review grading plans, address protection of sensitive biological resources, monitor ongoing work, and maintain communications with the project's engineer to ensure that issues relating to coastal California gnatcatcher, least Bell's vireo and their habitat are appropriately and lawfully managed.

The qualified biological monitor will also be responsible for the following duties:

1. Oversee installation of and inspect temporary fencing and erosion control measures within or up-slope of avoided and/or preserved areas a minimum of once per week during installation and daily during all rain events until established to ensure that any breaks in the fence or erosion control measures are repaired immediately.
2. Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust.
3. Halt work, if necessary, and confer with the USFWS and City to ensure the proper implementation of species and habitat protection measures.

The biologist will report any violation to the USFWS and City within 24 hours of its occurrence.

4. Submit weekly letter reports (including photographs of impact areas) via regular or electronic mail (email) to the City during clearing/grubbing of potential habitat and/or project construction resulting in ground disturbance within 500 feet of avoided potential habitat. The weekly reports will document that authorized impacts were not exceeded and general compliance with all conditions. The reports will also outline the duration of monitoring, the location of construction activities, the type of construction that occurred, and equipment used. These reports will specify numbers and locations of any coastal California gnatcatcher/least Bell's vireo and nests, sex, observed behavior (especially in relation to construction activities), and remedial measures employed to avoid, minimize, and mitigate impacts to coastal California gnatcatcher/least Bell's vireo and nests.
5. Submit a final report to the City within 60 days of project completion that includes the following: (1) as-built construction drawings for grading with an overlay of any active nests; (2) photographs of habitat areas during pre-construction and post-construction conditions; and (3) other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with the avoidance/minimization provisions and monitoring program as required by the USFWS were achieved.

MM-BIO-10

California Gnatcatcher Survey. For initial clearing/grubbing of coastal California gnatcatcher habitat within the project development footprint, a biologist holding a Section 10(a)(1)(A) permit shall perform a minimum of three (3) focused surveys, on separate days, to determine the presence of California gnatcatchers or nests in the project impact footprint. Surveys will begin a maximum of seven (7) days prior to performing initial clearing/grubbing, and one survey will be conducted the day immediately prior to the initiation of clearing/grubbing. If any coastal California gnatcatchers are found in the project impact footprint, the biologist will direct construction personnel to begin clearing/grubbing in an area away from the coastal California gnatcatchers and attempt to flush coastal California gnatcatchers away from clearing/grubbing so that coastal California gnatcatchers will not be injured or killed by clearing/grubbing activities. If an active coastal California gnatcatcher nest is found, the nest

will be avoided until nesting is confirmed to be completed by the biologist. The project applicant will notify the USFWS at least seven (7) days prior to the initiation of surveys and within 24 hours of locating any California gnatcatcher and/or nest.

MM-BIO-11

California Gnatcatcher Nest Avoidance and Minimization Measures. If an active coastal California gnatcatcher (*Polioptila californica californica*) nest is found on site or within 500 feet of project grading activities, the biologist shall postpone work within 500 feet of the nest and contact the U.S. Fish and Wildlife Service (USFWS) and the City of San Marcos to discuss (1) the best approach to avoid/minimize impacts to nesting coastal California gnatcatchers (e.g., sound walls, noise monitoring); and (2) a nest monitoring program acceptable to USFWS. Subsequent to these discussions, work may be initiated subject to implementation of the agreed-upon avoidance/minimization approach and monitoring program. If the biologist determines that bird breeding behavior is being disrupted, the project applicant shall stop work and coordinate with USFWS to review the avoidance/minimization approach. Upon agreement as to any necessary revisions to the avoidance/minimization approach, work may resume subject to the revisions and continued monitoring. Success or failure of an active nest shall be established by regular and frequent trips to the site, as determined by the biologist and through a schedule approved by the wildlife agencies. Monitoring of an active nest shall continue until fledglings have dispersed or the nest has been determined to be a failure, as approved by USFWS.

MM-BIO-12

General Pre-Construction Surveys. This mitigation measure serves to avoid take of birds protected under the Migratory Bird Treaty Act and California Fish and Game Code during the nesting season.

Nesting Bird Survey. To avoid any direct impacts on raptors and/or any migratory birds protected under the Migratory Bird Treaty Act and California Fish and Game Code, removal of habitat that supports active nests on the proposed area of disturbance shall occur outside the nesting season for these species (which is February 15 through August 31, annually). If construction occurs during the nesting season then preconstruction nesting bird surveys must be conducted within 72 hours of construction-related activities. If nesting birds are detected by the biologist, the following buffers shall be established: 1) no work within 300 feet of a non-listed nesting migratory bird nest, and 2) no work within 500 feet of a listed bird or raptor nest. However, the biologist may reduce these buffer widths depending on site-specific conditions (e.g. the width and type of screening vegetation

between the nest and proposed activity) or the existing ambient level of activity (e.g., existing level of human activity within the buffer distance) in conjunction with consultation with the City. If construction must take place within the recommended buffer widths above, the project applicant will contact the City and Wildlife Agencies to determine the appropriate buffer.

MM-BIO-13

Federal and State Agency Permits. Prior to impacts occurring to U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and California Department of Fish and Wildlife (CDFW) (collectively, the Resource Agencies) jurisdictional aquatic resources, the project applicant or its designee shall obtain the following permits: USACE 404 permit, RWQCB 401 Water Quality Certification, and CDFW Fish and Game Code 1600 Streambed Alteration Agreement. The project applicant will consult with the U.S. Fish and Wildlife Service and get approval of the mitigation plan to ensure that it does not impact listed species.

Finding

The Planning Commission of the City of San Marcos finds that: The mitigation measures MM-BIO-1 through MM-BIO-13 recommended in the Final EIR to mitigate, avoid or substantially lessen the significant environmental effects to special status plant and animal species and sensitive natural communities have been adopted as stated in the approval resolution and that these mitigation measures will mitigate the impact to species identified as a candidate, sensitive or special-status species and sensitive natural communities and cumulative impacts related to habitat loss to a less than significant level.

Facts in Support of Finding:

The project will result in significant direct impacts to special-status species if construction work and project operation is left unmitigated. However, implementation of mitigation measures MM-BIO-3 through MM-BIO-13 will reduce this impact by implementing responsible landscaping practices, temporary installation fencing, environmental awareness training, breeding season avoidance, work hours restrictions, construction best management practices, biological monitor requirements and duties, California gnatcatcher surveys, California gnatcatcher nest avoidance and minimization measures, general pre-construction surveys, and federal and state agency permits.

The project will result in significant direct impacts to riparian habitats and sensitive natural communities if construction work inadvertently harms the on-site sensitive vegetation or allows invasive species to spread. However, implementation of mitigation measures MM-BIO-1 and MM-BIO-2 will reduce this impact below a level of significance by preserving on-site vegetation, removing invasive species, and restoring the vernal pools on-site.

The project could result in significant direct impacts to jurisdictional wetlands and waterways if construction work damages some of the wetland vegetation or migratory birds living in the project site. However implementation of mitigation measures MM-BIO-1, MM-BIO-2, and MM-BIO-12 will

reduce this impact by preserving on-site vegetation, removing invasive species, restoring vernal pools, and conducting nesting bird surveys.

Compliance with existing regulations and implementation of MM-BIO-1 through MM-BIO-13 would ensure that the proposed project would not result in significant impacts to sensitive vegetation communities, special-status species, or nesting birds. Implementation of proposed mitigation and City review of proposed project plans for the site would ensure impacts to biological resources would be reduced to a level of less than significant.

With the incorporation of the above mitigation measures, significant environmental effects to biological resources will be less than significant.

CULTURAL RESOURCES

Implementation of the proposed project will not impact any identified archaeological resources, historical resources, or any known human remains interred outside a formal cemetery. Construction of the project will involve ground-disturbing activities with the potential to unearth or adversely impact previously unidentified archaeological resources. In addition, no known human remains are present on the project site. However, construction of the project will involve ground-disturbing activities, such as grading and surface excavation, with the potential to unearth or adversely impact previously unidentified human remains.

Mitigation Measures: The project includes mitigation measures in the MMRP that is to be adopted concurrently with these findings.

All cultural resources impacts and mitigation measures are detailed in Attachment A at the end of this document. Mitigation measures MM-CR-1 through MM-CR-4 will mitigate Impacts CR-1 and CR-2 (potential impact to unidentified cultural resources and human remains). Mitigation measures MM CR-1 through MM CR-4 will also substantially lessen impacts to tribal cultural resources which are discussed later in this document.

In order to mitigate potential impacts to unidentified subsurface cultural resources and human remains (Impacts CR-1 and CR-2), implementation of the following mitigation measures will be required:

MM-CR-1 **Pre-Excavation Agreement:** Prior to the issuance of a Grading Permit or ground disturbing activities, the Applicant/Owner shall enter into a Tribal Cultural Resources Treatment and Repatriation Agreement (Pre-Excavation Agreement) with a Traditionally and Culturally Affiliated Native American Tribe (TCA Tribe), identified in consultation with the City of San Marcos. The purpose of the Pre-Excavation Agreement shall be to formalize protocols and procedures between the Applicant/Owner and the TCA Tribe for the protection, treatment, and repatriation of Native American human remains, funerary objects, cultural and/or religious landscapes, ceremonial items, traditional gathering areas, and other tribal cultural resources. Such resources may be located within and/or discovered during

ground disturbing and/or construction activities for the proposed project, including any additional culturally appropriate archaeological studies, excavations, geotechnical investigations, grading, preparation for wet and dry infrastructure, and other ground disturbing activities. Any project-specific monitoring plans and/or excavation plans prepared by the project archaeologist shall include the TCA Tribe requirements for protocols and protection of tribal cultural resources that were agreed to during the tribal consultation.

The landowner shall relinquish ownership of all non-burial-related tribal cultural resources collected during construction monitoring and from any previous archaeological studies or excavations on the project site to the TCA Tribe for proper treatment and disposition per the Pre-Excavation Agreement, unless ordered to do otherwise by responsible agency or court of competent jurisdiction. The requirement and timing of such release of ownership, and the recipient thereof, shall be reflected in the Pre-Excavation Agreement. If the TCA Tribe does not accept the return of the cultural resources, then the cultural resources will be subject to curation.

MM-CR-2

Construction Monitoring: Prior to the issuance of a Grading Permit or ground disturbing activities, the Applicant/Owner or Grading Contractor shall provide written documentation (either as signed letters, contracts, or emails) to the City of San Marcos (City) Planning Division stating that a Qualified Archaeologist and Traditionally and Culturally Affiliated (TCA) Native American monitor have been retained at the Applicant/Owner or Grading Contractor's expense to implement the construction monitoring program, as described in the Tribal Cultural Resources Treatment and Repatriation Agreement. A monitor representing the San Pasqual Band of Mission Indians shall be provided the opportunity to monitor, should they choose to.

Native American monitoring shall include a monitor representing a TCA Tribe (Luiseño) and a monitor representing the San Pasqual Band of Mission Indians (if the San Pasqual Band elects to monitor). In the event that one or more TCA Tribe chooses not to enter into an agreement, or fails to respond to the offer, the City shall extend the opportunity for another TCA Tribe to provide a monitor. In the event that more than one TCA Tribe requests to provide a TCA Native American monitor for activities subject to these measures, the City will allow for either: 1) up to one monitor from each consulting tribe to be present simultaneously; or 2) for the tribes to develop a rotating schedule that alternates monitoring between the tribes on a daily or weekly basis. The monitors shall be provided at least 72 hours' notice of the initiation of construction and be kept reasonably apprised of changes to

the construction schedule. In the event that a monitor is not present at the scheduled time, work can continue without the monitor present, as long as the notice was given and documented.

The Qualified Archaeologist and TCA Native American monitor shall be invited to attend all applicable pre-construction meetings with the General Contractor and/or associated subcontractors to present the construction monitoring program. The Qualified Archaeologist and TCA Native American monitor shall be present on site during grubbing, grading, trenching, and/or other ground-disturbing activities that occur in areas of native soil or other permeable natural surfaces that have the potential to unearth any evidence of potential archaeological resources or tribal cultural resources. In areas of artificial paving, the Qualified Archaeologist and TCA Native American monitor shall be present on site during grubbing, grading, trenching, and/or other ground disturbing activities that have the potential to disturb more than 6 inches below the original pre-project ground surface to identify any evidence of potential archaeological or tribal cultural resources. No monitoring of fill material, existing or imported, will be required if the General Contractor or developer can provide documentation to the satisfaction of the City that all fill materials being utilized at the site are either from existing commercial (previously permitted) sources of materials or are from private or other non-commercial sources that have been determined to be absent of tribal cultural resources by the Qualified Archaeologist and TCA Native American monitor.

The Qualified Archaeologist and TCA Native American monitor shall maintain ongoing collaborative coordination with one another during all ground disturbing activities. The requirement for the construction monitoring program shall be noted on all applicable construction documents, including demolition plans and grading plans. The Applicant/Owner or Grading Contractor shall provide written notice to the Planning Division and the TCA Tribe, preferably through email, of the start and end of all ground disturbing activities.

Prior to the release of any grading bonds, or prior to the issuance of any project Certificate of Occupancy, an archaeological monitoring report that describes the results, analysis, and conclusions of the construction monitoring shall be submitted by the Qualified Archaeologist, along with any TCA Native American monitor's notes and comments received by the Qualified Archaeologist, to the Planning Division Manager for approval. Once approved, a final copy of the archaeological monitoring report shall be retained in a confidential City project file and may be released, as a formal condition of Assembly Bill 52 consultation, to Rincon Band of Luiseño

Indians, San Pasqual Band of Mission Indians, or any parties involved in the project specific monitoring or consultation process. A final copy of the report, with all confidential site records and appendices, will also be submitted to the South Coastal Information Center after approval by the City of San Marcos.

MM-CR-3

Unanticipated Discovery Procedures: Both the Qualified Archaeologist and the Traditionally and Culturally Affiliated (TCA) Native American monitor may temporarily halt or divert ground disturbing activities if potential archaeological resources or tribal cultural resources are discovered during construction activities. Ground disturbing activities shall be temporarily directed away from the area of discovery for a reasonable amount of time to allow a determination of the resource's potential significance. Isolates and clearly non-significant archaeological resources (as determined by the Qualified Archaeologist, in consultation with the TCA Native American monitor) will be minimally documented in the field. All unearthed archaeological resources or tribal cultural resources will be collected, temporarily stored in a secure location (or as otherwise agreed upon by the Qualified Archaeologist and the TCA Tribe), and repatriated according to the terms of the Tribal Cultural Resources Treatment and Repatriation Agreement (Pre-Excavation Agreement), unless ordered to do otherwise by responsible agency or court of competent jurisdiction.

If a determination is made that the archaeological resources or tribal cultural resources are considered potentially significant by the Qualified Archaeologist, the TCA Tribe, and the TCA Native American monitor, then the City of San Marcos (City) and the TCA Tribe shall determine, in consultation with the Applicant/Owner and the Qualified Archaeologist, the culturally appropriate treatment of those resources.

If the Qualified Archaeologist, the TCA Tribe, and the TCA Native American monitor cannot agree on the significance or mitigation for such resources, these issues will be presented to the Planning Division Manager for decision. The Planning Division Manager shall make a determination based upon the provisions of CEQA and California Public Resources Code, Section 21083.2(b), with respect to archaeological resources and California Public Resources, Sections 21704 and 21084.3, with respect to tribal cultural resources, and shall take into account the religious beliefs, cultural beliefs, customs, and practices of the TCA Tribe.

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 avoidance of the resource is determined to be infeasible by the City as the Lead Agency, then the City shall require additional culturally appropriate mitigation to address the

negative impact to the resource, such as, but not limited to, the funding of an ethnographic study and/or a data recovery plan, as determined by the City in consultation with the Qualified Archaeologist and the TCA Tribe. The TCA Tribe shall be notified and consulted regarding the determination and implementation of culturally appropriate mitigation and the drafting and finalization of any ethnographic study and/or data recovery plan and/or other culturally appropriate mitigation. Any archaeological isolates or other cultural materials that cannot be avoided or preserved in place as the preferred mitigation shall be temporarily stored in a secure location on site (or as otherwise agreed upon by the Qualified Archaeologist and TCA Tribe) and repatriated according to the terms of the Pre-Excavation Agreement, unless ordered to do otherwise by responsible agency or court of competent jurisdiction. The removal of any artifacts from the project site will be inventoried with oversight by the TCA Native American monitor.

If a data recovery plan is authorized as indicated above and the TCA Tribe does not object, then an adequate artifact sample to address research avenues previously identified for sites in the area will be collected using professional archaeological collection methods. If the Qualified Archaeologist collects such resources, the TCA Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the Qualified Archaeologist does not collect the cultural resources that are unearthed during the ground disturbing activities, the TCA Native American monitor may, at their discretion, collect said resources for later reburial or storage at a local curation facility, as described in the Pre-Excavation Agreement.

In the event that curation of archaeological resources or tribal cultural resources is required by a superseding regulatory agency, curation shall be conducted by an approved local facility within San Diego County and the curation shall be guided by California State Historical Resources Commission's Guidelines for the Curation of Archaeological Collections. The City shall provide the Applicant/Owner final curation language and guidance on the project grading plans prior to issuance of the Grading Permit, if applicable, during project construction. The Applicant/Owner shall be responsible for all repatriation and curation costs and provide to the City written documentation from the TCA Tribe or the curation facility, whichever is most applicable, that the repatriation and/or curation have been completed.

MM-CR-4

Human Remains: As specified by California Health and Safety Code, Section 7050.5, if human remains, or remains that are potentially human, are found on the project site during ground disturbing activities or during archaeological work, the person responsible for the excavation, or his or

her authorized representative, shall immediately notify the San Diego County Medical Examiner'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 Traditionally and Culturally Affiliated [TCA] Native American monitor) shall occur until the Medical Examiner has made the necessary findings as to origin and disposition pursuant to California Public Resources Code, Section 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 American monitor) and consultation and treatment could occur as prescribed by law. As further defined by state law, the Medical Examiner will determine within 2 working days of being notified if the remains are subject to his or her authority. If the Medical Examiner recognizes the remains to be Native American, and not under his or her jurisdiction, then he or she shall contact the Native American Heritage Commission by telephone within 24 hours. The Native American Heritage Commission will make a determination as to the most likely descendent, who shall be afforded 48 hours from the time access is granted to the discovery site to make recommendations regarding culturally appropriate treatment.

If suspected Native American remains are discovered, the remains shall be kept in place until after the Medical Examiner makes their determination and notifications and until after the most likely descendent is identified, at which time the archaeological examination of the remains shall only occur on site in the presence of the most likely descendent. The specific locations of Native American burials and reburials will be proprietary and not disclosed to the general public. According to California Health and Safety Code, six or more human burials at one location constitutes a cemetery (Section 8100) and disturbance of Native American cemeteries is a felony (Section 7052). In the event that the Applicant/Owner and the most likely descendant are in disagreement regarding the disposition of the remains, state law will apply, and the mediation process will occur with the Native American Heritage Commission. In the event that mediation is not successful, the landowner shall rebury the remains at a location free from future disturbance (see California Public Resources Code, Sections 5097.98[e] and 5097.94[k]).

Finding

The Planning Commission of the City of San Marcos finds that mitigation measures MM-CR-1 through MM-CR-4, recommended in the Final EIR to mitigate, avoid or substantially lessen the significant environmental effects to archaeological resources and human remains have been adopted as stated in the approval resolution and that these measures will mitigate the impact to archaeological resources and human remains to a less than significant level.

Facts in Support of Finding:

Implementation of the proposed project will not impact any identified archaeological resources, historical resources, or any known human remains interred outside a formal cemetery. However, the potential exists for impacts to unknown cultural resources during project grading. These potentially significant impacts to archaeological resources and human remains will be mitigated to below a level of significance through implementation of Mitigation Measures MM-CR-1 through MM-CR-4.

Specifically, implementation of mitigation measures MM-CR-1 through MM-CR-3 provide for the presence of archaeological and Native American monitors during ground disturbing activities that would be able to identify any previously unidentified cultural resources and to prevent inadvertent disturbance of any intact cultural deposits that may be present. Should any resources be identified, implementation of mitigation measures MM-CR-1, MM-CR-2, and MM-CR-3 will require proper handling and treatment of such resources by providing for a proper evaluation to determine whether additional archaeological work is necessary.

Finally, potential impacts to human remains will be mitigated through implementation of Mitigation Measure MM-CR-4, which includes the requirement that any remains uncovered during ground disturbing activities shall not be further disturbed until the San Diego County Coroner has determined origins of the remains and final treatment has been agreed to with input of Native American Tribes as necessary. Therefore, with incorporation of these measures, potential impacts to cultural resources will be reduced to below a level of significance.

GEOLOGY AND SOILS

The proposed project will result in potentially significant impacts related to the potential for project construction activities to adversely affect paleontological resources during excavation.

Mitigation Measures: The project includes mitigation measures in the MMRP that is to be adopted concurrently with these findings.

All geological and soil related impacts and mitigation measures are detailed in Attachment A at the end of this document. Mitigation measure MM-GEO-1 will mitigate Impact GEO-1 (potential impact to paleontological resources).

In order to mitigate potential impacts to paleontological (Impact GEO-1), implementation of the following mitigation measure will be required:

MM-GEO-1

Prior to commencement of any grading activity on site, the applicant shall retain a qualified paleontologist meeting the Society of Vertebrate Paleontology (SVP) (2010) guidelines. The paleontologist shall prepare a Paleontological Resources Impact Mitigation Program (PRIMP) for the Project. The PRIMP shall be consistent with the guidelines of the SVP (2010) and include the following elements: project description, preconstruction worker environmental awareness training, frequency of monitoring, salvage protocols, reporting, and collections management. The qualified paleontologist or a qualified monitor meeting the SVP (2010) guidelines shall be on site during all rough grading and other significant ground-disturbing activities below a depth of 5 feet below the existing ground surface in previously undisturbed, Pleistocene-age deposits and all disturbance within the middle Eocene age Santiago Formation. If excavations below 5 feet are not impacting previously undisturbed deposits, as determined by the qualified paleontologist, spot-check monitoring shall ensue. In the event that paleontological resources (e.g., fossils) are unearthed during grading, the paleontological monitor shall temporarily halt and/or divert grading activity to allow recovery of the paleontological resources. The area of discovery shall be roped off with a 50-foot-radius buffer to document and collect the fossils. Once documentation and collection of the find is completed, the monitor shall remove the rope and allow grading to recommence in the area of the find. No monitoring is required during excavations that the paleontologist determines are within artificial fill or younger alluvium (e.g., Holocene age Quaternary alluvium, younger than approximately 11,700 years).

Finding

The Planning Commission of the City of San Marcos finds that mitigation measure MM-GEO-1, recommended in the Final EIR to mitigate, avoid or substantially lessen the significant environmental effects to paleontological resources have been adopted as stated in the approval resolution and that these measures will mitigate the impact to paleontological to a less than significant level.

Facts in Support of Finding:

The project could result in significant direct impacts to paleontological resources if ground disturbing activities and excavation come in contact with them. However, implementation of mitigation measure MM-GEO-1 will reduce this impact by preparing a Paleontological Resources Impact Mitigation Program (PRIMP) for the project.

Compliance with existing regulations and implementation of MM-GEO-1 would ensure that the proposed project would not result in significant impacts to paleontological resources. Implementation of proposed mitigation and City review of proposed project plans for the site would ensure impacts to Geological and Soil impacts would be reduced to a level of less than significant.

With the incorporation of the above mitigation measures, significant environmental effects to geology and soil resources will be less than significant.

TRIBAL CULTURAL RESOURCES

Construction of the project would involve ground-disturbing activities such as grading and surface excavation, with the potential to unearth or adversely impact previously unidentified tribal cultural resources.

Mitigation Measures: The project includes mitigation measures in the MMRP that is to be adopted concurrently with these findings.

All tribal cultural resources impacts and mitigation measures are detailed in Attachment A at the end of this document. Implementation of mitigation measures MM-CR-1 through MM-CR-4 discussed above under cultural resources will impacts reduce to tribal cultural resources (Impact TCR-1) to a level below significance.

In order to mitigate potential impacts to tribal cultural resources (Impact TCR-1), implementation of the following mitigation measures will be required:

MM-CR-1 through MM-CR-4, discussed above under Cultural Resources.

Finding

The Planning Commission of the City of San Marcos finds that mitigation measures MM-CR-1 through MM-CR-4, recommended in the Final EIR to mitigate, avoid or substantially lessen the significant environmental effects to tribal cultural resources have been adopted as stated in the approval resolution and that these measures will mitigate the impacts to tribal cultural resources to a less than significant level.

Facts in Support of Finding:

For reasons described under Cultural Resources above, implementation of mitigation measures MM-CR-1 through MM-CR-4 would reduce potentially significant impacts to tribal cultural resources to a level below significance.

Section IV Environmental Effects that Cannot be Mitigated to Below a Level of Significance

This section identifies the significant unavoidable impacts that require a Statement of Overriding Considerations to be issued by the City upon approval of the project. Based on the analysis contained in the Final EIR, the following impacts to transportation have been determined to fall within this "significant unavoidable impact" category. These unavoidable impacts are overridden by project benefits set forth in the Statement of Overriding Considerations in Section VI, below.

Pursuant to Section 21081 of the Public Resources Code and Section 15091(a)(3) of the State CEQA Guidelines, the City of San Marcos finds that, for each of the following significant effects, specific economic, legal, social, technological, or other considerations, make infeasible the

mitigation measures identified in the Final EIR. These findings are explained below and are supported by substantial evidence in the record of proceedings.

TRANSPORTATION

The project will conflict with CEQA Guidelines section 15064.3, subdivision (b). The project will result in a potentially significant direct and cumulative impact due to the project exceeding the VMT per employee threshold. Since the project proposes industrial land uses, this EIR evaluates whether the project VMT per employee would exceed a significance threshold of 15% below the existing countywide average. The project VMT per employee is 16.80, above the significance threshold of 15% below the regionwide average, or 16.07 VMT per employee. Because the project's VMT per employee is more than 15% above the regionwide average, impacts would be potentially significant.

Mitigation Measures: The project includes mitigation measures in the MMRP that is to be adopted concurrently with these findings.

All transportation impacts and mitigation measures are detailed in Attachment A at the end of this document. The proposed project would have a significant VMT impact and mitigation measures are required to reduce the VMT per employee. The proposed project's total VMT per employee is 16.80 miles. To mitigate the proposed project's VMT to less-than-significant levels, mitigation measures would need to reduce the total VMT per employee by 4.4% from 16.80 miles to 16.07 miles. To reduce the average VMT per employee, it is recommended that the proposed project implement a TDM Program. A TDM program would facilitate increased opportunities for walking and bicycling, as well as provide the resources, means, and incentives for ridesharing and carpooling. The SANDAG Mobility Management Guidebook/VMT Reduction Tool was taken into consideration initially; however, this tool does not provide strategies that are applicable to project. Therefore, the methods and strategies contained in the California Air Pollution Control Officers Association Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity were considered. Mitigation measures MM-TRA-1 through MM-TRA-3 proposed for the project are anticipated to reduce the VMT per capita generated by 2.6001%. Thus, with implementation of the TDM program, the proposed project is anticipated to generate 16.36 VMT per employee ($16.80 \text{ VMT per employee} \times (1 - 0.026001)$). The resulting 16.36 miles per employee exceeds the 16.07 miles threshold. Therefore, since the mitigation measures would not reduce the VMT per employee to less-than-significant levels, the impact is only partially mitigated, and the proposed project would have a significant and partially mitigated impact. Therefore, despite the implementation of MM-TRA-1 through MM-TRA-3, impacts would be significant and unavoidable.

MM-TRA-1 **Provide Ridesharing Program (CAPCOA T-8).** This measure would implement a ridesharing program for employees. The program shall include desirable parking spaces for ridesharing vehicles, adequate passenger loading/unloading and waiting areas for ridesharing vehicles, and an app/website for ride coordination. This measure would reduce up to 2.0% Employee VMT with 50% employee eligibility.

MM-TRA-2 **Provide End-of-Trip Bicycle Facilities (CAPCOA T-10).** This measure would install and maintain end-of-trip facilities for employee use, including

bike parking, bike lockers, showers, and personal lockers. This measure would reduce up to 0.6% Employee VMT.

MM-TRA-3

Expand Bikeway Network (CAPCOA T-20). This measure would increase the length of a city or community bikeway network by providing bicycle infrastructure (Class I, Class II, or Class IV). More specifically, the project would construct 0.5 miles of Class II bicycle facilities along South Pacific Street between Linda Vista Drive and West San Marcos Boulevard. This bicycle facility would increase the existing bicycle lane miles within the City of San Marcos from 41.1 miles to 41.6 miles. The bike facility would provide additional opportunities to ride within the City and provide a direct connection between the Class I Bike Paths proposed along Linda Vista Drive and West San Marcos Boulevard. The proposed Class II bicycle lanes would have a 1 ½-foot buffer where on-street parking is allowed and a 3-foot buffer where on-street parking is prohibited. This measure would reduce up to 0.0001% Employee VMT.

In addition to MM-TRA-1 through MM-TRA-3, the following improvement recommendation proposed by the LTA would be incorporated as a condition of approval, which have the potential to reduce greenhouse gas emissions; however, it is not considered a mitigation measure because it would not reduce VMT:

- **Provide Electric Vehicle Charging Infrastructure (CAPCOA T-14) – Install electric vehicle charging stations at EV parking spaces.** The project would install 4 electric vehicle charging stations and 3 EV-ready parking spaces. There are also 9 parking spaces designated for clean air vehicles.

Finding

The Planning Commission of the City of San Marcos finds that direct and cumulative impacts to VMT levels to be significant. The above mitigation measures, MM-TRA-1 through MM-TRA-3 recommended in the Final EIR have been adopted and will reduce the impacts but not to a level below significance. The impacts are overridden by project benefits as set forth in the statement of overriding considerations.

Facts in Support of Finding:

MM-TRA-1 through MM-TRA-3 outlined above would reduce impacts related to the VMT per employee. However, even with implementation of these mitigation measures, project VMT would remain significant. The proposed project's VMT per employee is not anticipated to fall under the significance threshold as the project site is located in a suburban area that includes single-family homes with higher automobile ownership as compared to the region. While the proposed project is located on an infill site and is consistent with Climate Action Plan and SANDAG's Regional Plan, impacts related to VMT per employee would not be reduced to 85% of the regional average. This impact is primarily a result of the geographic location of the proposed project in a suburban neighborhood, as trip characteristics of the surrounding residential land uses are used as a surrogate to estimate proposed project trip characteristics, regardless of the inherent differences between the land uses.

As described previously, mitigation measures MM-TRA-1 through MM-TRA-3 proposed for the project are anticipated to reduce the VMT per capita generated by 2.6%. Thus, with implementation of the TDM program, the proposed project is anticipated to generate 16.36 VMT per employee ($16.8 \text{ VMT per employee} \times (1 - 0.026)$). The resulting 16.36 miles per employee exceeds the 16.07 miles threshold. Therefore, since the mitigation measures would not reduce the VMT per employee to less-than-significant levels, the impact is only partially mitigated, and the proposed project would have a significant and partially mitigated impact. Therefore, despite the implementation of MM-TRA-1 through MM-TRA-3, impacts would be significant and unavoidable.

Section V Findings Regarding Project Alternatives

The State CEQA Guidelines section 15126.6(a) requires the discussion of a “a reasonable range of alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” The Guidelines states that the “range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects” (Section 15126(c)). The Final EIR evaluated a reasonable range of alternatives to the proposed project. These alternatives are:

- No Project Alternative
- Reduced Development Intensity Alternative

When a lead agency has determined that a proposed project will still cause one or more significant environmental effects that cannot be substantially lessened or avoided after the adoption of all feasible mitigation measures, prior to approving the project as mitigated, the agency must determine whether there remain any project alternatives that are both environmentally superior with respect to such impacts and feasible within the meaning of CEQA.

An alternative may be rejected if it is “infeasible” or if it fails to achieve the most basic project objectives identified within the EIR. “Feasibility” under CEQA encompasses the desirability of the project based on a reasonable balancing of relevant economic, environmental, social, or other considerations which make infeasible the project alternatives.

Table 1 below provides a list of the project objectives and offers a qualitative comparison of each alternative’s conformance to the project objectives.

Alternative 1: No Project Alternative

CEQA requires a No Project Alternative to be addressed in an EIR. Under the No Project Alternative, the proposed project would not be implemented and the project site would remain undeveloped in its existing condition. This alternative would eliminate all the significant impacts identified for the proposed project. Since the No Project Alternative would not provide any development, overall impacts would be reduced compared to the proposed project. However, certain benefits would not be realized under this alternative, including the provision of a light industrial building as identified in the General Plan. As the No Project Alternative would not

develop the site or allow for employment, this alternative would not fulfill any of the project objectives.

Finding and Facts in Support of Finding

The Planning Commission of the City of San Marcos rejects the No Project/No Development Alternative for the following reasons:

1. The opportunity to develop the light industrial building at the project site would not be provided if this alternative were adopted.
2. The No Project/No Development Alternative does not meet any of the project objectives, as shown in Table 1, below.

The No Project/No Development Alternative is therefore rejected in favor of the proposed project.

Alternative 2: Reduced Development Intensity Alternative

Under the Reduced Development Intensity Alternative, a 21,800 SF warehouse building would be developed. The substantial reduction in light industrial size from 67,410 SF under the project, to 21,800 SF under this alternative would be required to fall under the Small Project criteria (i.e. less than 110 daily trips) and avoid VMT impacts. Other improvements, such as circulation, landscaping and utility connections would occur as required. Off-site improvements beyond those required by mitigation measures would not occur under this alternative.

Because development of the Reduced Development Intensity Alternative would include grading and development of the same site, construction-related impacts would be similar to the proposed project and would potentially provide a slightly reduced level of impact in some environmental analysis areas including air quality, biological resources, cultural resources, geology and soils, greenhouse gases and tribal cultural resources. As described above, mitigation measures would still be required to mitigate impacts to biological resources, cultural resources, and tribal cultural resources. This alternative would meet most of the project objectives, with the exception of objective 3, as this alternative would not maximize the allowable development footprint on site.

This alternative would meet all of the project objectives, with the exception of objective 3, as this alternative would not maximize the allowable development footprint on site.

Finding and Facts in Support of Finding

Among the other alternatives, not including the project, the Reduced Development Intensity Alternative would be considered the environmentally superior alternative because it would potentially provide a reduced level of impact in some environmental analysis areas including air quality, greenhouse gas, and geology and soils. However, such impacts under this alternative would still remain as less than significant, similar to the project. The Reduced Development Intensity Alternative would also result in decreased footprint specific impacts, such as those related to cultural resources, biological resources, and tribal cultural resources. This alternative would meet all of the project objectives, with the exception of objective 3, as this alternative would not maximize the allowable development footprint on site.

Table 1. Summary of Project Objectives and Alternatives

Objective	Alternative	
	No Project/No Development	Existing Land Use Designation
	<i>Meets objectives?</i>	
1. Expand the existing Hughes Circuit facilities to a nearby location for ease of continued operation and access	No	Yes
2. Concentration non-residential uses near existing roadways, highways, and freeways in an effort to isolate and reduce any potential environmental impacts related to truck traffic congestion, air emissions, and industrial noise to the greatest extent feasible.	No	Yes
3. Develop a fiscally sound and employment-generating land use that maximizes the use of the light-industrial zoned area.	No	No
4. Restore, manage, and conserve sensitive onsite biological resources, to the extent feasible, while accommodating and maximizing development on-site consistent with the General Plan land use and zoning designation.	No	Yes
5. Promote infill development and develop a site that is served by existing utilities, services, and street access.	No	Yes

Section VI Statement of Overriding Considerations

The Planning Commission of the City of San Marcos adopts and makes this statement of overriding considerations concerning the project's unavoidable significant impacts to transportation to explain why the project's benefits override and outweigh its unavoidable impacts.

The Planning Commission of the City of San Marcos finds that the project's significant environmental impacts are acceptable when balanced with the project's benefits.

Each of the benefits cited below constitutes a separate and independent basis that justifies approval of the project and outweighs the unavoidable adverse environmental effects of approving the project, and thus make the adverse environmental effects acceptable. Thus, even in the absence of one or more of the reasons set forth below, the City has determined that each remaining reason, or any combinations of reasons, is a sufficient basis for approving the project, notwithstanding any significant and unavoidable impacts that may occur.

1. **General Plan and Zoning Consistency:** The project will develop a use consistent with the existing land use and zoning designation for the site in proximity to SR-78, South Rancho Santa Fe Road, Linda Vista Drive, South Pacific Street, South Las Posas Road, and West San Marcos Boulevard. These facilities will either provide a direct connection to the project, via a project driveway, or will provide a critical link between the project and the regional transportation network. The project will also expand the existing Hughes Circuits facilities to a nearby location for ease of continued operation and access.
2. **Restore, manage, and conserve sensitive on-site biological resources:** The project will restore, manage, and conserve sensitive on-site biological resources, to the extent feasible, while accommodating and maximizing development on site consistent with the General Plan land use and zoning designation. The proposed light industrial building would be located at the western-most portion of the project site, and the disturbance area associated with project construction would be limited to approximately 113,877 SF or 2.61 acres of the 10.46-acre project site. The remaining acreage would be preserved through the implementation of MM-BIO-1 and MM-BIO-2 which provides for the preservation of 7.85 acres of high value habitat.
3. **Tax and Public Facilities Financing:** The project will provide a stable and significant source of property tax revenue for the City. The project will make a fair share contribution towards the financing of public improvements and services, including police, fire, parks and recreation, and roadway infrastructure.
4. **Job Creation:** The project will boost the local economy by supporting construction related jobs during the approximately 14 months of project construction.

Conclusion

In light of the foregoing, and the information contained within the Final EIR and other portions of the project record, the City concludes that implementation of the Hughes Circuits Project will result in the development of a beneficial project as outlined above. The City also finds that the benefits identified above outweigh and make acceptable the significant, unavoidable environmental impacts associated with the Hughes Circuits Project and, accordingly, adopts this Statement of Overriding Considerations.