



**ATTACHMENT E**

**CITY COUNCIL RESOLUTION CC 2018-8562**

**FOR CUP 18-0004**

RESOLUTION NO. 2018-8562

A RESOLUTION OF THE CITY OF SAN MARCOS CITY COUNCIL  
APPROVING A MODIFICATION TO A CONDITIONAL USE PERMIT TO  
MODIFY THE PHASED OPERATION OF A FULL SERVICE  
ENTERTAINMENT PRODUCTION FACILITY IN THE SPECIFIC PLAN  
(SPA) ZONE WITHIN THE QUESTHAVEN /LA COSTA MEADOWS  
COMMUNITY PLAN

Case No. CUP 18-0004  
Loma San Marcos LLC

WHEREAS, on January 11, 2018, an application was received from Edenpark SM, LLC on behalf of the owner of the property, Loma San Marcos, LLC requesting a modification to a Conditional Use Permit originally approved on April 13, 2004, to revise the project phasing in conjunction with the establishment and operation of an entertainment production facility on a 15.34 acre property located within the Questhaven/La Costa Meadows Community Plan, located at 1601 San Elijo Road, more particularly described as:

A PORTION OF THE NORTHWEST QUARTER OF SECTION 33,  
TOWNSHIP 12 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE  
AND MERIDIAN, IN THE CITY OF SAN MARCOS AND COUNTY OF SAN  
DIEGO, STATE OF CALIFORNIA ACCORDING TO OFFICIAL PLAT  
THEREOF

Assessor Parcel Numbers: 223-080-41-00, and 223-080-42-00

WHEREAS, the City Council did approve the Conditional Use Permit (Resolution 2004-6323) on April 13, 2004 in conjunction with the San Marcos Studio Specific Plan (Ordinance 2004-1223); and

WHEREAS, a Real Property and Lien Agreement (Agreement) between the City and property owner was recorded on June 14, 2004. The purpose of the Agreement was to establish City and property owner cooperation on phasing of payment of Public Facility Fees (PFF) and street improvement requirements. The Agreement implemented a payment schedule for the PFFs and the timing of the implementation of the improvements by separating the project into phases.

WHEREAS, an evaluation of the transportation generation rates of the proposed land use was conducted in accordance with the adopted Community Facilities District (CFD) 2011-01 Congestion Management (Resolution 2012-7632) annexation procedures, and it was determined that annexation will not be required; and

WHEREAS, the Development Services Department did study said request and does recommend approval of the request; and

WHEREAS, the Development Services Department held a public workshop on June 20, 2018; and

WHEREAS, the Planning Commission recommended approval to the City Council on October 15, 2018; and

WHEREAS, the required public hearing held on November 13, 2018 was duly advertised and held in a manner prescribed by law; and

WHEREAS, the City Council did consider the Addendum prepared for the previously adopted Mitigated Negative Declaration (ND 03-681) pursuant to the California Environmental Quality Act (CEQA);

WHEREAS, the City Council's decision is based upon the following findings and determinations:

1. The proposed Conditional Use Permit (CUP), with conditions, will not result in detrimental impacts to adjacent properties or the character and function of the neighborhood. The CUP proposes modification to the project phasing that would change the current approved Phase 1 to Phases 1A and 1B. Phase 1 would be a "pre-phase" known as Phase 1A that would utilize a smaller portion of the project site for film production as compared to the original approved CUP. Other applicable project conditions of the project would continue to be required as part of future Phase 1B (currently within Phase 1) of the project. The existing building is adequately setback from San Elijo Road and adjacent to vacant lands to the north, south and west, with the closed San Marcos Landfill to the east. A traffic analysis conducted for the proposed Phase 1A concluded that the modified project would generate less Average Daily Trips when compared to the original project's first Phase, therefore would not create new impacts to San Elijo Road. Existing and new project conditions are in place which adequately address any impacts to adjacent properties or the function of the neighborhood.
2. The design, development, and conditions associated with the CUP are consistent with the goals, policies, and intent of the General Plan, the purpose and intent of the applicable Zone, and the character of any applicable Specific Plan. The site is currently designated in the General Plan and zoned Specific Plan Area, The project is located within the adopted Loma San Marcos Specific Plan (formerly San Marcos Studios) which allows for a full service film production facility on the property. The Loma San Marcos Specific Plan includes discussion of the project's compatibility with the General Plan. The project is modifying the CUP conditions of approval, creating Phase 1A which would utilize a smaller portion of the project site for film production as compared to

the original approved CUP therefore the modified project remains consistent with the goals, policy and intent of the General Plan and Zoning.

3. The land use allowed in conjunction with the CUP is compatible with the existing and future land uses of the applicable Zone, and the general area which the proposed use is to be located. The project proposes a modification to an existing CUP which allowed a film production studio, associated offices and storage within an existing building. The modification will allow for a change in project phasing which would create a Phase 1A that would allow the use of a smaller area of the existing building for film production. Land uses to the north, south and east (landfill) of the site are designated Open Space in the General Plan. Land to the west of the facility, currently located in the unincorporated County, are within the City's Sphere of Influence and designated as Specific Plan Area that includes the potential for light industrial, commercial, and open space land uses. Filming activities take place within the existing building, and existing CUP conditions are in place to ensure that impacts are addressed and the site remains compatible with surrounding land uses.
4. All requirements of CEQA have been met in that the previously adopted Mitigated Negative Declaration concluded that all impacts were determined to be either less than significant or were mitigated to a level of less than significant through recommended mitigation measures. Based on the analysis in the Addendum to the Mitigated Negative Declaration, the SPA and modifications to the CUP are not substantial, the circumstances under which the proposed project is undertaken have not substantially changed, and there is no new information of substantial importance to require significant changes to the Mitigated Negative Declaration.

NOW, THEREFORE, the City Council resolves as follows:

- A. The forgoing recitals are true and correct.
- B. The CUP is within the scope of the previously adopted Mitigated Negative Declaration (ND 03-681) and Mitigation Monitoring and Reporting Program and the Addendum to the Mitigated Negative Declaration (ND 03-681) is hereby adopted pursuant to CEQA.
- C. The City Council hereby approves this Conditional Use Permit per the submitted site and floor plans dated September 25, 2018, except as modified herein, and subject to compliance with the conditions of approval set forth below.
- D. This Conditional Use Permit modification is approved in conjunction with the submitted SPA and all conditions of approval specified in Ordinance No. 2018-XXXX, which document is incorporated herein by this reference, and the mitigation measures in previously

adopted Mitigated Negative Declaration (ND 03-681) and Addendum to Mitigated Negative Declaration (Resolution No. XX-XXXX), are hereby incorporated by reference and made a part of this Resolution with the same force and effect as though fully set forth herein.

- E. The Conditional Use Permit is approved based on the submitted site plan in the Specific Plan based on phasing, except as modified herein and subject to the following conditions:
1. This CUP is only for the area depicted on the Site Plan, on the south side of San Elijo Road.
  2. The operation is limited to entertainment production studios, rental of sound stages, storage related to film production and offices as specified in the Loma San Marcos Specific Plan.
  3. All parking shall be as delineated on the Site Plan/Specific Plan per phase. At no time shall vehicles be parked on access roads, causing reduced parking availability.
  4. The storage, use or handling of hazardous, toxic or flammable materials shall be clearly indicated on all floor plans submitted for a building permit. Materials required to be identified are per Health and Safety Code Section 25101. Drainage grates shall be provided on ends of automotive bays connected to an on-site holding tank.
  5. Any change in occupancy in this portion of the building shall be approved by the City Building Official as required by the latest adopted Uniform Building Code. A new Certificate of Occupancy will be issued after the City has inspected and approves the new use.
- F. Additional architectural articulation on the easterly elevation of the proposed office building, such as architectural enhancements on the western elevation, shall be submitted for approval by the Planning Division Manager, prior to the issuance of building permits for Phase 2.
- G. The applicant/developer shall implement, to the satisfaction of the Development Services Director, all environmental impact mitigation measures identified in the project's Mitigated Negative Declaration and 2018 Addendum pursuant to each Phase.
- H. Reliance of the Conditional Use Permit is subject to the following operational standards.
1. Phase 1A operations shall consist of the following land uses: 61,650 square feet of movie production studio (includes the ability to create no more than five basketball

courts), 9,750 square feet of media office for movie production and 108,135 square feet of storage area for movie production equipment and supplies.

2. Hours of operation for youth sports filming conducted in Phase 1A shall be 3:00 P.M. to 9:00 P.M. during weekdays and 8:00 A.M. to 9:00 P.M. on weekends.
3. Other commercial filming conducted in Phase 1A shall take place between 8:00 A.M. and 3:00 P.M. Commercial filming/production shall not occur on-site on the same day when youth sports filming is occurring.
4. Competitive youth sports activities on site shall only be conducted in conjunction with on-site commercial filming and production. Youth sports activities independent of commercial filming is not permitted on-site.
5. Tournaments associated with the youth sports filming activity shall only take place on weekends and holidays unless approved in advance by the Planning Manager.
6. The overflow parking area as shown on the site plan shall include temporary portable lighting.
7. The overflow parking lot area shall consist of decomposed granite or other City approved material for the lot surfaces as well as recycled rubber wheel stops, railroad ties or other material to clearly delineate the border of the parking lot area.
8. Gates to the site shall remain locked during non-operating hours.
9. All production work, including youth sport filming, shall be conducted entirely within the enclosed building. All outdoor work shall require a formal request for approval of filming activities by the City Manager or his designee, unless exempted by the Planning Manager. The request will specify the time, place, extent of filming activities, and any special lighting or noise which would result from these activities.
10. All filming activities shall remain consistent with the Declaration of Covenants, Conditions and Restrictions which runs with the land recorded as Document #2007-0627143 dated September 26, 2007.
11. A separate permit shall be required for any new signage, including temporary signs. Signage must comply with the City of San Marcos Sign Ordinance. Directional/wayfinding signage location shall be indicated within the sign permit.
12. Use of the site must be conducted so as not to become obnoxious by reason of noise, odor, refuse, parking impacts, or maintenance of grounds and in such a

manner as will not detrimentally affect adjoining properties and uses.

13. The building address and suite number must be clearly labeled at front and rear doors for day and night-time emergency responses. In addition, adequate lighting must be provided to deter potential criminal activities (i.e. vehicle burglaries, prowlers, loitering, etc.).
14. The facility must comply with all applicable provisions of San Marcos Municipal Code (SMMC) Chapter 14.15 (Storm Water Management and Discharge Control) and other regional permits/standards for the protection of storm water quality.
15. Non-storm water discharges, including but limited to irrigation run-off into the City's storm drain conveyance system is considered an illicit discharge and is prohibited during construction, operation, or maintenance, in accordance with SMMC 14.15.
16. The applicant/developer is responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.
17. The applicant/developer is required to maintain a City of San Marcos Business License for the duration of the business.
18. All landscaped areas shall be well maintained for the life of the permit.
19. Special events are prohibited from occurring on-site with exception of events associated with the film production industry related to movie studio use.
20. Sport court areas shall be designed for the safety of the youth sport participants. Walls in the activity area shall be equipped with adequate padding to prevent injury.
21. Use of aerial drones for the filming of youth sports activities is prohibited.
22. Any trash receptacles (i.e. dumpsters) shall be located in the covered enclosure and out of public view at all times. The trash enclosure (minimum dimensions of fourteen (14) feet wide by ten (10) feet deep by six (6) feet high) for trash and recycling containers.
23. On site monitoring of indoor methane gas levels is required. Calibration of monitoring equipment shall occur every six months. The applicant/developer shall maintain records of each calibration event, noting the date, sensor number and alarm/no-alarm response, or cause such records to be maintained. Applicant/developer shall also cause any exceedance of methane gas above 1.25% by volume in air to be immediately reported to the San Diego County Local Enforcement Agency.

- I. Prior to reliance in the use of Phase 1B or any subsequent phases, the following conditions shall be complied with:
  1. Prior to the construction of any new hardscape enhancements in Phase1B detailed landscape and irrigation plans are to be submitted to the Planning Division to illustrate final landscape design consistent with the revised Specific Plan. Landscape plans shall comply with the City's Water Efficient Landscape Ordinance and are subject to plan check and inspection fees.
  2. The applicant/developer shall submit landscape plans with characteristics that maximize infiltration, provide retention, reduce runoff by use of efficient irrigation, and minimize the use of fertilizers, herbicides and pesticides. Said landscaping plan shall be approved by the city prior to issuance of building permit for phase 1B.
  3. Improvements to the intersection of the project driveway and San Elijo Road shall be installed and be operational, in accordance with the approved traffic mitigation measures identified in the original project approval (CUP03-596 - Reso No. 2004-6323).
  4. The storm water management facilities shall be designed and installed in accordance with the most current regulatory standards and submitted for review and approval by applicable City departments.
  5. The applicant/developer shall submit an access and circulation plan for the main entry driveway to accommodate traffic for the County landfill. The applicant/developer shall also coordinate with the City and the adjacent Encina site (APN: 223-080-46-00) to ensure that appropriate access from San Elijo Road is achieved as determined by the City Engineer.
- J. Prior to issuance of any grading permits the following conditions shall be complied with:
  1. The applicant/developer shall bear the expense of all on-site and offsite grading and on-site construction of curb, gutter, sidewalk, paving, street lights, utility undergrounding or relocation, and drainage facilities, as related to this project and as required by the City Engineer.
  2. The permanent placement of Vallecitos Water District's large meter services, detector checks, fire hydrants, etc., along circulation element streets shall be placed at the extreme edges of the ultimate right-of-way including trails to avoid reconstruction or modification of same. Said device shall be screened with landscaping where feasible. These facilities may require additional easements in



favor of Vallecitos Water District. Large meter services and detector checks shall be screened with landscaping to the extent feasible.

3. The approval of this project does not guarantee that potable water and/or sewer capacity will be available for the project at the time of grading or building permit application.
4. The applicant/developer shall comply with all rules, regulations and design requirements of the respective sewer and water agencies regarding services to the project.
5. Individual parking spaces shall be a minimum of nine (9) feet wide by eighteen (18) feet depth. The depth maybe decreased down to sixteen (16) feet when there is allowable curb overhang onto adjacent landscaped areas. Curb overhang maybe allowed adjacent to sidewalks as long as there is a minimum unobstructed sidewalk width of three and one-half (3.5) feet. Otherwise, wheel stops shall be installed to prevent vehicles from hanging over the sidewalk.
6. Prior to the installation of public street lights, the applicant/developer shall pay all applicable fees and deposit with the City a sum of money sufficient to energize, operate and maintain the public street landscaping (medians and parkways) and lighting system for a period of eighteen (18) months.
7. Unless a standard variance has been issued, no variance from City Standards is authorized by virtue of approval of this site plan.
8. A detailed grading plan shall be submitted to the City's Engineering Division for review and approval. Grading plans and activities shall be based on a comprehensive investigation of surface and subsurface conditions. Results of this investigation and recommendations arising there from shall be submitted in the form of a report.
9. A geologic and soils study shall be conducted for the proposed project. Said study shall give recommendations for cut and fill slopes, compaction and suitability for step foundations. Said study shall be prepared by a registered Civil and/or Geotechnical Engineer and approved by the City's Engineering and Building Divisions. Recommendations of the Civil and/or Geotechnical Engineer, City Engineer and Building Official shall be implemented at the time of development.
10. The applicant/developer shall secure letters of permission from adjacent property owners for all graded slopes crossing property lines. Absent of such permission, grading plans shall conform to the required grading setbacks as provided in the City's Grading Ordinance.

11. Slopes in excess of twenty (20) feet shall not be permitted by grading activities, except for public roadway construction, unless a variance is first approved by the City.
12. All permanent manufactured fill slope banks shall be constructed at a gradient no steeper than 2:1 (horizontal to vertical). The Civil and/or Geotechnical Engineer shall verify slope stability for any cut slope greater than 2:1; in no case shall the cut slope exceed 1.5:1. The City Engineer will require support documentation from a licensed Civil and/or Geotechnical Engineer for graded cut slopes greater than 2:1.
13. Erosion control and/or sediment control details shall be submitted with/on the grading plans to the City's Engineering Division for review and approval. The details shall conform to City standards, codes and ordinances. The details shall include landscaping and temporary irrigation systems on exposed slopes to be approved by the City's Engineering and Planning Divisions.
14. Prior to the issuance of a grading permit for the southern parking lot, a hydrology report (calculations) shall be prepared for the proposed project to determine the existing and future runoff flow after development for the 100-year storm conditions. Storm drains and drainage structures shall be sized for build-out according to the approved hydrology report. All surface runoff originating within the project and all surface waters that may flow onto the project from adjacent properties shall be accommodated by the drainage system. The report shall also determine the buildout runoff into existing off-site natural drainage swales and storm drain systems, and shall address any need for off-site improvement requirements. Blocking, concentrating, lowering or diverting of natural drainage from or onto adjacent property shall not be allowed without written approval of the affected property owner. This report shall be subject to approval of the City Engineer and comply with all resource agency permitting in place at the time of grading.
15. The applicant/developer shall be responsible for mitigating impacts created by changes in drainage runoff course, concentration, or quantity to the satisfaction of the City Engineer for both on-site and off- site drainage. This may require the applicant/developer to provide all necessary easements and improvements to accommodate drainage and flood control structures extending beyond the boundaries of the project.
16. The owner of the subject property shall execute a "Hold Harmless" Agreement with the City of San Marcos regarding diversion of surface waters, the alteration of normal flow of surface waters or drainage, or the installation of the drainage system or other improvements identified in the approved plans.

17. Drainage easements shall be granted between private property owners where private storm drain facilities cross onto adjacent or abutting lots.
  18. The applicant/developer shall obtain approval for a final storm water quality management plan (SWQMP). The storm water management facilities identified in the SWQMP shall address the ultimate condition of the project.
  19. Proof of coverage under the State of California's General Construction Permit shall be provided to the Engineering Division. A copy of the Storm Water Pollution Prevention Plan (SWPPP) submitted with the State's permit shall be submitted.
  20. Should the applicant/developer decide to develop phases out of numerical sequence with the approved phasing as shown on the plan, all conditions required of the proceeding phases shall be completed unless otherwise approved by the City Engineer and the Director of Planning. Other conditions may be imposed by the City Engineer and Director of Planning, to allow out-of-phase construction.
  21. Under separate permit, the applicant/developer shall submit private landscape and irrigation plan area to the Planning Division for review and approval. The landscape plans, including plant material and irrigation design, shall comply with the City's Landscape Water Efficiency Ordinance, Section 20.330 of the San Marcos Municipal Code.
  22. This project is subject to the payment of a landscape permit and inspection fee for the private landscape plan set. The landscape permit and inspection fee shall be four and one-half percent (4.5%) of the Landscape Professional's estimate for the completion of all landscaping shown on approved mylars. All submitted estimates shall be stamped and signed by the Landscape Professional, and estimate the cost of plant and irrigation materials only.
- K. Prior to the issuance of any building permit (including Tenant Improvements), the following conditions shall be complied with:
1. Prior to issuance of building permits for Phase 1A the applicant/developer shall apply for a right-of-way permit for improvement within San Elijo Road. All appropriate fees shall be paid for the processing of the permit.
  2. Prior to issuance of building permits for Phase 1A the applicant/developer shall mitigate for impacts on City services related to emergency response, traffic congestion, landscaping, and infrastructure maintenance. The mitigation shall be

met through the execution of applications to annex the real property of the project into the following Community facilities Districts (CFD):

CFD 98-01 - Improvement Area No. 1 (Police Only)

CFD 98-02 – Lighting, Landscaping, Open Space and Preserve Maintenance

CFD 2001-01 – Fire and Paramedic

No permit will be issued without receipt of a petition for annexation and consent and waiver executed by the property owners for each of the above-referenced Community Facilities Districts for the establishment of the special taxes. In lieu of annexation the applicant/developer may pay a fee for each CFD consentient with the pre-payment option laid out in each CFD's formation documents. The applicant/developer shall be responsible for compliance with all rules, regulations, policies and practices established by State Law and/or the City with respect to the Community Facilities Districts including, without limitation, requirements for notice and disclosure to future owners and/or residents.

3. Prior to issuance of building permits for Phase 1A the building plan shall include a striping, signage, and surface improvement plan to clearly identify the vehicle and pedestrian controls at the intersection of the driveway and San Elijo Road.
4. Prior to issuance of building permits for Phase 1A all Public Facilities Fees, as established by the latest adopted ordinances and resolutions, shall be paid in full.
5. Prior to issuance of building permits for Phase 1A an approved fire safety and evacuation plan per California Fire Code (CFC) section 404 shall be prepared, maintained and approved by the Fire Department.
6. Prior to issuance of building permits for Phase 1A a parking layout plan shall be submitted to the Planning Division indicating location and dimension of parking stalls and width of drive aisles consistent with Zoning Ordinance requirements. A minimum of 328 spaces shall be provided.
7. Prior to issuance of building permits for Phase 2, a Site Development Plan must first be processed and approved by the City.
8. The Engineer-of-Work shall certify that all grading and construction of grading related improvements (erosion control, storm drains, etc.) have been in substantial conformance with the approved plans, reports, and standards.
9. All grading shall be supervised by an Civil and/or Geotechnical Engineer, who shall prepare a written report to the satisfaction of the City Engineer certifying that the

work has been performed in compliance with the recommendations contained within the geotechnical report and approved plans. If not so done, the report shall describe the actual work performed and any deficiencies observed. The final report shall specifically detail conditions and remedial work performed that was not specifically mentioned in the initial report of subsurface conditions.

10. This project is subject to payment of the public facility fee established by the City of San Marcos. The amount of the fee shall be in accordance with the latest adopted ordinance and resolution determined for the project.
11. The U.S. Postal Service delivery system currently in place will meet the needs for Phase 1A. The applicant/developer shall contact the Delivery Retail Analyst for the branch of the U.S. Postal Service to determine the type and location of centralized delivery equipment required for subsequent phases.
12. Prior to construction, there shall be an all-weather surface street capable of supporting the imposed loads of fire apparatus, and water supplies (fire hydrants), unless City Manager, or his designee, authorizes a deviation or exception from this policy.
13. Prior to issuance of building permits for Phase 1B, the applicant/developer shall make a fair share contribution towards improvements to the San Elijo Road along the project frontage, as well as improvements to roadways and public infrastructure off-site, as determined by the City Engineer.
14. Prior to issuance of a building permit for each phase, the project will be required to provide an analysis demonstrating that there is adequate parking and on-site circulation, for each phase based on comparable production facilities.
15. Prior to the issuance of building permits for Phase 1B, submit any color change for the existing building to the City for review and approval.
16. Prior to the issuance of building permits for Phase 2, final architectural elevations, materials board and landscape plans conforming to the revised Specific Plan shall be submitted.
17. New buildings and remodeled structures shall be designed to conform to the latest design standards adopted by the State of California in the California Building Code (CBC), Part 2, Title 24, California Code of Regulations.
18. Building plans and instruments of service submitted with a building permit application shall be signed and sealed by a California licensed design professional as required by the State Business and Professions Code.

19. The City of San Marcos is located in Seismic Design Category "D." Buildings and structures must be designed to adequately transmit the dynamic lateral forces in accordance with the requirements of the latest adopted California Building Code.
20. The storage, use or handling of hazardous, toxic or flammable materials shall be clearly indicated on all floor plans submitted for a building permit. Materials shall be identified in accordance with Health and Safety Code Section 25101.
21. Tenants are required to obtain written permission from the building owner, or owner's agent, prior to obtaining a building permit from the city. Per San Marcos Municipal Code Chapter 17.08.030 Section 105.10, the tenant must obtain written permission from the building or property owner that the applicant/developer is authorized to proceed with the proposed construction.
22. The proposed development shall comply with the latest adopted California Green Building Code Standards. The city has adopted the mandatory standards and does not enforce the voluntary standards.
23. The proposed development shall satisfy the conditions of approval prior to the first occupancy as required per each Phase. The applicant/developer shall obtain approval from all City departments and other agencies or shall cause such approval to be obtained before requesting a Certificate of Occupancy ("C of O") from the Development Services Department.
24. The proposed new development is subject to approval by the Vallecitos Water District and all applicable fees and charges shall be paid to the District prior to permit issuance.
25. The proposed new development is subject to the payment of development fees and in-lieu fees as required by the City's Fee Ordinance at the time an application is submitted or prior to the issuance of permits as determined by the City.
26. Any new development, which necessitates updating of emergency response maps by virtue of new structures, hydrants, roadways or similar features, shall be required to provide map updates. Provide a copy of building plans in Geo-Referenced format to be used by fire dept. for pre-fire planning purposes.
27. An automatic fire extinguishing system is required in accordance with the latest adopted California Building Code, California Residential Code and/or San Marcos Fire Code Ordinance. Fire suppression systems shall conform to the standards adopted by the National Fire Protection Association and the San Marcos Fire Marshal.

28. All improvements shall comply with the latest adopted California Fire Code and San Marcos Fire Code Ordinance.
29. The proposed development must comply with the latest Federal Law, Americans with Disabilities Act, and State Law, California Code of Regulations, Title 24, for accessibility standards for the disabled.
30. For each phase, the applicant/developer shall obtain a letter from Vallecitos Water District indicating that the existing water and sewer facilities are sufficient for each Phases of the project.
31. Any new development requiring additional water or sewer service beyond the current capacity of the existing facilities is subject to the approval of the Vallecitos Water District and all applicable fees and charges shall be paid to the satisfaction of the district prior to permit issuance.
32. Prior to issuance of a building permit for all phases beyond 1A, any water wells, excluding monitoring wells, shall be abated or reconstructed in strict compliance with San Marcos Municipal Code Section 8.44.130 through 8.44.170 and the State Water Code.
33. Sewer and water utilities shall be located wholly on the lot' that serves the building in accordance with the latest adopted edition of the Uniform Plumbing Code.
34. Dust and dust producing materials shall be controlled within the maximum acceptable concentrations for silica and silicates in accordance with the California Code of Regulations, Title 8, Section 5155. Water and dust palliative shall be used to prevent excessive dust.
35. The applicant/developer shall obtain required OSHA permits for excavations and rock drilling operations in accordance with the California Code of Regulations, Title 8, Section 1503.
36. Any new development is subject to the payment of School Fees as required by law. The applicant/developer is required to submit a Certificate of Compliance from the school district to obtain building permits from the City.
37. Any new development is subject to the payment of development fees and in-lieu fees as required by the City's Fee Ordinance at the time an application is submitted or prior to the issuance of permits as determined by the City.

38. Prior to the issuance of building permits for Phase 1B, all proposed buildings shall be subject to design review by the Planning Division consistent with the revised Specific Plan. This would require submittal of architectural elevations, renderings and/or material boards.
39. Prior to issuance of building permits or occupancy for Phase 1B, whichever occurs first, the applicant/developer shall dedicate to the City of San Marcos easements or rights-of-way for all public streets, utilities, drainage facilities and appurtenances thereto and all other interests in real property required by these conditions and as shown on the site plan and shall pay the City for the right-of-way already acquired for Allied Waste for the widening of San Elijo Road. All dedicated easements or rights-of-way shall be granted to the City free and clear of all liens and encumbrances and without cost to the City and free of environmental hazards, hazardous materials or hazardous wastes.
40. Prior to issuance of building permits or occupancy for Phase 1B, whichever occurs first, San Elijo Road shall be dedicated/acquired by the applicant/developer along the project frontage based on a Prime Arterial Street centerline to right-of-way width of 63 feet. An additional trail easement shall be granted to the satisfaction of the Parks and Recreation Director.
41. Prior to issuance of building permits or occupancy for Phase 1B, whichever occurs first, the applicant/developer shall design and submit plans and specifications for construction of an additional travel lane along the project frontage and transitions, and off-site installation of a traffic signal at San Elijo Road and the entrance to the project. Said plans shall include a signage and striping plan utilizing CalTrans standards. Said improvement shall be constructed prior to occupancy of Phase 1B.
42. Prior to issuance of building permit or occupancy for Phase 1B, whichever occurs first, the applicant shall enter into a Development Improvement Agreement with the City to complete the all required public improvements within a period specified in the agreement unless agreement is incorporated as part of the larger San Elijo Road improvement project.
43. Prior to the issuance of building permits for 1B, the applicant/developer shall submit a final site entry improvement plan if changed from the previously approved entry plan subject to approval by the City Engineer delineating the ingress/egress to the Landfill and studio/office project. If development on APN 223-080-46-00 (parcel to the west) commences before Phase 1B goes forward, the applicant shall submit the final entry improvement plan for City approval. The site plan shall also illustrate required stacking or queuing distance on San Elijo Road or the entry area. The applicant/developer shall also coordinate with the City and adjacent site (APN 223-080-46-00) to ensure that appropriate access from San Elijo Road is achieved as determined by the City Manager.



44. Prior to issuance of any building permit or occupancy for Phase 1B, whichever occurs first, the applicant/developer shall post securities to the City of San Marcos, in amounts approved by the City Attorney and the City Engineer or their designees, for the construction of all public and private improvements including but not limited to the following: grading and erosion control, traffic signal, additional travel lane and transitions, storm drain facilities, landscaping, and off-site street repair. Said security shall be in a form acceptable to the City and shall remain in force until completion of the project and final approval by the City. Said security shall insure the construction of the "Approved" public improvements within a period to be specified in the Development Improvement Agreement.
  45. Prior to the issuance of any building permits for Phase 1B the applicant/developer shall post securities to the City of San Marcos, in amounts approved by the City Attorney and the City Engineer or their designees, for the construction of all public and private improvements including but not limited to the following: grading and erosion control, street improvements, traffic signals, storm drain facilities, landscaping, and off-site street repair. Said security shall be in a form acceptable to the City and shall remain in force until completion of the project and final approval by the City. Said security shall insure the construction of the "Approved" public improvements within a period to be specified in the Development Improvement Agreement.
- L. During the construction phase, the following conditions shall be complied with:
1. The applicant/developer shall retain a professional registered Civil and/or Geotechnical Engineer (Engineer-of-Work) to oversee the grading and construction activities as specified in Section 6703.1 of the Professional Engineer Act.
  2. The applicant/developer shall submit a traffic control plan for all phases of construction within or adjacent to (driveways) public right- of-way for approval by the Director of Public Works. Said plan shall include all traffic control devices including traffic signals as required.
  3. Paving of roads/parking lots shall be completed as early as possible to mitigate short-term dust problems associated with construction.
  4. Prior to the delivery of combustible building construction materials to the project site; the following conditions shall be completed to satisfaction of the Fire Department. (1) Fire Hydrants(s) shall be installed, approved, and usable. (2) Fire Lane or Access Roads shall be in place and provide a permanent all weather surface for emergency vehicles that support weight of fire apparatus (75,000 lbs.).

5. During grading and construction phases of development, the application of water or other means of dust control shall be performed to the satisfaction of the Building Inspector and the Public Works Director.
6. Grading, excavation or other related earth moving operations, including warm-up and maintenance activities, shall be limited to the hours of 7:00 a.m. to 4:30 p.m., Monday through Friday. No work shall be allowed on Saturdays, Sundays and holidays.
7. All construction operations authorized by building permits, including the delivery, setup and use of equipment must be conducted on premises during the hours of 7:00 AM to 6:00 PM on Monday through Friday, and on Saturday between 8:00 AM and 5:00 PM. No work must be conducted on Sundays or Holidays observed by the City of San Marcos. Failure to comply will result in the issuance of STOP WORK NOTICES, REVOCATION OF PERMITS and the issuance of citations and fines as appropriate. Citations for hours of work violations require a mandatory court appearance in North County Superior Court.
8. During grading and construction operations, the applicant/developer shall maintain public and private driveway access to neighboring businesses/properties at all times unless previous arrangements have been made with the private parties affected. Copies of said agreements shall be provided to the City Engineer.
9. The applicant/developer shall construct erosion control devices of a type and size and at locations as approved by the City Engineer. Devices shall be installed and maintained in working condition during the rainy season (November 1 through April 1).
10. Dust and dust producing materials must be controlled within the maximum acceptable concentrations for silica and silicates in accordance with the California Code of Regulations, Title 8, Section 5155. Water and dust palliative must be used to prevent excessive dust during blasting, construction and grading operations. Projects are required to comply with the Air Pollution Control District's standards for mitigating fugitive dust during all phases of construction.
11. Hauling of earth over residential streets of developed areas shall be avoided. Where not possible to avoid, a truck-hauling route shall be submitted to the City for approval prior to commencement of any grading operation. Such approved haul routes may require a greater structural section, to the satisfaction of the City Engineer and/or the Director of Public Works.
12. The applicant/developer shall ensure that the grading and other construction activities meet the provisions identified in SMMC Chapter 14.15 and other regional permits/standards for the protection of storm water quality.

13. During construction the applicant/developer must implement and maintain the storm water pollution prevention measures as required on the approved plans. Violations of the SMMC 14.15 may will result in Stop Work Orders, Notices of Violation and citations with fines. Work on the project may be delayed until the City determines that the project is in compliance with the storm water requirements.
  14. The applicant/developer shall utilize sediment controls only as a supplement to erosion prevention for keeping sediment on-site during construction- NEVER as a single or primary method.
  15. The applicant/developer shall clear and grade only the areas on the project site that are necessary for construction. These areas shall be clearly denoted on the plans an in the SWPPP.
  16. The applicant/developer shall minimize exposure time of disturbed soil areas.
- M. Prior to occupancy of any structure on the site in any phase the following conditions shall be complied with:
1. The proposed development must satisfy the applicable conditions of approval prior to the occupancy of each phase. The applicant/developer must obtain approval from all City departments and other agencies before requesting a Certificate of Occupancy ("C of O") from the Development Services Department.
  2. Prior to occupancy of Phase 1A, a raised barrier, to prevent left-turn movements from the shared driveway onto San Elijo Road, shall be installed. The barrier design shall be to the satisfaction of the City Engineer and the County of San Diego.
  3. All applicable easements and agreements shall be recorded prior to occupancy of Phase 1A.
  4. Prior to occupancy of Phase 1A the applicant/developer shall provide contractual evidence that a film production entity has been retained to film the youth sports activities.
  5. Prior to occupancy of Phase 1A an automatic fire sprinkler system shall be installed in compliance with 2016 CFC and the most current edition of the NFPA 13.
    - a. The fire sprinkler system shall have current 5-Year sprinkler certificate attached to the riser.

- b. Fire Department Connection shall be properly labeled with an attached sign indicating the buildings it serves.
6. Prior to occupancy of Phase 1A Fire alarm system shall be installed in compliance with 2016 CFC and most current edition NFPA 72.
7. Prior to occupancy of Phase 1A Knox Key Boxes shall be provided. A master key for entry to all gates, enclosures and equipment rooms or areas is required. Knox box shall be mounted in area approved by the Fire Department at a height of 60 to 66 inches above grade. Knox Box shall be type with side hinged door. Multiple Knox Boxes will be required.
8. Prior to occupancy of Phase 1A the applicant/developer shall install hard-wired methane gas sensor/alarm detectors in appropriate locations in the existing building structures located within a minimum of 1,000 feet of the landfill and immediately report to the San Diego County Local Enforcement Agency (LEA) (for the adjacent closed San Marcos Landfill) any alarm detectors of methane gas above 1.25% by volume in air. Follow applicable LEA procedures to mitigate for methane gas above 1.25%. Calibrate methane gas detectors with a "bump test" every six months. Maintain a log book on site for each calibration event, noting the date, sensor number and alarm/no-alarm response.
9. Prior to occupancy of Phase 1A, all parking and improvements shall be installed per the approved parking layout plan. In addition, design and permitting of the traffic signal will be pursued, with all necessary approvals to be achieved no later than fourteen (14) months from the date of approval of this Resolution, and construction completed within four (4) months of receipt of all such necessary approvals.
10. Prior to occupancy of Phase 1B, all improvements shown on the improvement plans, as approved by the City Engineer, including, but not limited to the on-site improvements, additional travel lane and transitions, and the traffic signal, shall be constructed or modified as applicable, prior to release of any improvement securities.
11. Prior to occupancy of Phase 1B, the applicant/developer shall perform an evaluation to determine the necessity of a retrofit and/or seal of all existing and proposed conduits and conduit perforations into the building structure with explosive proof or intrinsically safe conduit seals to preclude the migration of landfill gas into the structure unless such seals are already in place.
12. Prior to final inspection of grading and/or improvements in Phase 1B, "As-Built" reproducible grading and improvement plans shall be submitted and approved by the Public Works Director and the City Engineer. "As- Built" plans shall reflect minor field

changes and approved construction changes in accordance with the City's "As-Built" policy.

13. A digital file on a thumb-drive or a disk of all plans and maps shall be submitted to the City.
14. Prior to occupancy Phase 1B the applicant/developer shall post a security with the City in an amount approved by the City Engineer for the warranty of all dedicated public improvements for a one (1) year period from the time of acceptance by the Director of Public Works.
15. Prior to occupancy Phase 1B the applicant/developer shall obtain approval for a final storm water quality management plan (SWQMP). The storm water management facilities/post-construction BMPs identified in the SWQMP shall address the ultimate condition of the project.
16. Prior to occupancy of Phase 1B the applicant/developer shall ensure that all post-construction BMPs identified in the approved SWQMP are installed and are functioning properly.
17. Prior to occupancy of Phase 1B, the applicant/developer shall submit, for City review and approval, a mechanism, which will ensure ongoing long-term maintenance of all structural post-construction Best Management Practices (BMPs).
18. If grading activities create new slopes, then the applicant/developer shall stabilize all slopes per a City approved method.
19. Prior to occupancy of Phase 1B, the applicant/developer shall make necessary arrangements with each of the serving utilities, including cable television, for the undergrounding of all utilities fronting and along the front entry driveway and parking areas serving the property with the exception of sixty-nine (69) KVA or greater power lines within the site.
20. Prior to occupancy of Phase 1B the mitigation measures contained in the Mitigation Monitoring & Reporting Program ("MMRP") shall be implemented in conjunction with the development of the Project.
21. Prior to the occupancy of Phase 2, all utilities fronting, or abutting, or within the project shall be undergrounded with the exception of sixty- nine (69) KVA or greater power lines. Undergrounding shall take place prior to surfacing of streets.

22. At each phase, all landscaping shall be installed, and inspected and approved by the Planning Division. Landscaping shall be established and flourishing in a healthy manner. The applicant/developer shall be responsible to contact the Planning Division for inspection.
  23. At each phase, the applicant/developer shall submit a Certificate of Completion by the landscape architect and engineer-of-work to the Planning Division certifying that the plant materials and irrigation system have been installed in accordance with the approved landscape plans and the Water Quality Technical Report, respectively.
- N. The applicant/developer shall comply with all provisions and requirements set forth in the San Marcos Municipal Code, City ordinances, City policies and City resolutions, and with all applicable state and federal regulations, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated herein by reference and fully set forth at this point.
  - O. Gates or other devices that may obstruct fire access roadways shall be provided with Knox Key switch with cover and all drive gates shall be equipped with approved emergency traffic strobe sensor(s), which opens the gate on approach of emergency vehicles. Gates shall have battery back-up or manual means of disconnect in case of power failure.
  - P. The applicant/developer shall ensure that prospective purchasers sign a disclosure identifying the property as being within the City's Community Facilities Districts Boundaries which are subject to supplemental tax assessments. Annexation into one or more of these districts and payment of in-lieu fees is or will be required.
  - Q. This Conditional Use Permit shall expire on November 13, 2021 unless the developer/applicant has initiated Phase 1B. Initiation of Phase 1B shall be accomplished by issuance of applicable permits associated with the Phase 1B improvements. Any request for permit extension shall be applied for by the permittee no later than 120 days prior to the expiration date.
  - R. The alignment and terminal point of storm drains shown on the site plan shall not be considered final. These drains shall be subject to precise design considerations and approval by the City Engineer.
  - S. The applicant/developer shall comply with all rules, regulations and conditions of the Encina Wastewater Authority, Vallecitos Water District, County Health Department, Hazardous Management Division, the California Department of Toxic Substances Control and the Air Pollution Control District for the operation of this type of facility and the materials used; emitted, and disposed of by the operator. The applicant/developer shall

submit a copy of said permits to the Planning Division prior to issuance of building permits in each phase, if applicable.

- T. No modification, relocation or expansion will be allowed without first receiving approval from the City of San Marcos, either through an administrative amendment of the Specific Plan and/or a modification of the Conditional Use Permit and Specific Plan.
- U. The applicant/developer shall be responsible for conducting the proposed use in a manner as not to become obnoxious by reason of refuse, odor, dust, smoke, maintenance of grounds and buildings, and not to have a detrimental effect on permissible adjacent uses.
- V. This Use Permit shall be reviewed annually by the Planning Division to determine if its use is having a detrimental impact on the surrounding uses or if the conditions of approval are not being met. If, based upon this review, it is determined that the conditions of approval are not being complied with or the use is having a detrimental impact then the Conditional Use Permit shall be referred back to the Planning Commission for possible modification/revocation.
- W. This Conditional Use Permit shall become null and void if not acted upon within twelve (12) months of the adoption of this resolution.
- X. To the extent permitted by law, the applicant/developer shall defend and hold the City of San Marcos ("City"), its agents and employees harmless from liability from: (i) any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permits arising from the project as defined in the conditions of approval, or issuance of grading or building permits; (ii) any damages, liability and/or claim of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the applicant/developer or its contractors, subcontractors, agents, employees or other persons acting on applicant/developer's behalf which relate to the project; and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. Applicant/developer further agrees that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of City by counsel selected by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project, but shall survive in perpetuity.
- Y. To the extent feasible and as permitted by law, developers and contractors are requested to first consider the use of San Marcos businesses for any supplies, materials, services and equipment needed and the hiring of local residents in order to stimulate the San Marcos economy to the greatest extent possible.

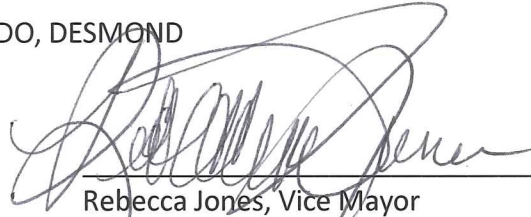
PASSED, APPROVED AND ADOPTED by the City Council of the City of San Marcos, California, this 13th day of November, 2018, by the following roll call vote:

AYES: COUNCILMEMBERS: JABARA, JENKINS, JONES

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: ORLANDO, DESMOND

ABSTAIN: COUNCILMEMBERS: NONE

  
\_\_\_\_\_  
Rebecca Jones, Vice Mayor  
City of San Marcos

ATTEST:

  
\_\_\_\_\_  
Phillip Scollick, City Clerk  
City of San Marcos