

ATTACHMENT B – Settlement Agreement

SETTLEMENT AGREEMENT REGARDING OTAY RANCH VILLAGE 13 PROJECT

This Settlement Agreement (“**Agreement**”) is entered into as of the date executed by the last signatory (“**Effective Date**”) by and among (1) Center for Biological Diversity, Preserve Wild Santee, California Chaparral Institute, Endangered Habitats League, California Native Plant Society, and Sierra Club (collectively “**Environmental Parties**”); (2) the People of the State of California, *ex rel.* Rob Bonta, Attorney General of California (the “**People**”), and (3) Moller Otay Lakes Investments, LLC, Lakeview 1, LLC and Lakeview 2, LLC (collectively, “**Lakeview**”), and Baldwin & Sons, LLC (together with Lakeview, “**Developer**”), each a “**Party**” and collectively the “**Parties**.”¹

RECITALS

A. In November 2020, the County of San Diego (“**County**”) certified an environmental impact report (“**Final EIR**”) and approved certain entitlements (“**Project Approvals**”) for the Otay Ranch Village 13 project (“**Project**”) sought by Developer on approximately 1,869 acres of land owned by Lakeview and located in the Jamul Mountains region of unincorporated San Diego County (APNs 598-130-04, -05, & -06; 598-140-04, -05, & -06; 647-020-14; and 647-030-05), as more particularly described in Exhibit 1, attached hereto (“**Property**”).

B. On December 17, 2020, Environmental Parties filed a lawsuit challenging the County’s Project Approvals and certification of the Final EIR alleging violations of the California Environmental Quality Act (“**CEQA**”) and the State Planning and Zoning Law, *Center for Biological Diversity, et al. v. County of San Diego, et al.*, San Diego County Superior Court Case No. 37-2020-00046553 (the “**Lawsuit**”). The People intervened in the Lawsuit to challenge the County’s Project Approvals and certification of the Final EIR.

C. The Parties have now identified mutually agreeable terms to resolve and settle the claims in the Lawsuit, which terms include enhanced mitigation for the Project’s greenhouse gas (“**GHG**”) impacts, wildfire risk and evacuation impacts, and biological resources impacts; a reduced development footprint resulting in approximately 292 acres of additional open space as compared to the Project (the “**Additional Open Space**”); and an option for the Developer to apply for development of up to 812 additional dwelling units above the 1,938 units originally approved by the County, all as more particularly provided in this Agreement.

¹ As used in this Agreement and as applied to all entities besides the People, a “Party” includes the officers, governing boards, board members, agents, and employees of that Party. “Party” does not include the members of any membership organization that is a Party who are not also officers, members of the governing board, agents, or employees of the Party. As used in this Agreement, the “People” (and the People when referred to as a Party or Parties) refers only to the Attorney General of California in his independent capacity and does not include any agency of or other entity acting on behalf of the State of California, even if such agency or entity is represented by the Office of the Attorney General.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. REVISED DEVELOPMENT PROJECT.

1.1 Revised Development. Developer shall apply to the County for such entitlements and/or approvals as may be needed for a revised development that is consistent with this Settlement Agreement and either consists of up to 1,938 units as originally approved by the County (the “**Revised Project**”) or includes a maximum of 812 additional dwelling units above the 1,938 units originally approved by the County (the “**Increased Unit Project**”). The application for and development of the Revised Project or the Increased Unit Project shall include and conform to the following modifications and requirements:

(a) The Revised Project and Increased Unit Project shall be limited to the area depicted in Exhibit 2, attached hereto. (“**Revised Development Footprint Area**”). The Revised Development Footprint Area may be adjusted without the need to amend this Agreement provided the adjustment has been approved in writing by all Parties (including but not limited to an adjustment made pursuant to Section 3.5(b)(3));

(b) The Revised Project and Increased Unit Project shall include all elements of the previously approved Project intended to reduce environmental impacts, including without limitation the fire station and expansion of Otay Lakes Road from two-lanes to four-lanes up to the Project’s easterly entrance, except as provided in Section 3.1 below;

(c) No development, grading, cutting, filling, or vegetation removal shall occur outside of the Revised Development Footprint Area and the fuel modification zone (“**FMZ**”) established per the specifications of Section 3.5(a) below;

(d) The Revised Project shall include all of the mitigation measures set forth in Section 3, Developer shall request that the County incorporate the measures into the Mitigation, Monitoring and Reporting Plan (“**MMRP**”) for the Revised Project, and Developer shall adhere to those measures;

(e) In the event Developer elects to seek approval for the Increased Unit Project to develop between 1,939 and 2,750 dwelling units within the Revised Development Footprint Area, Developer shall include the mitigation measures set forth in Section 2 and Section 3, shall request that the County incorporate those measures into the MMRP for the Increased Unit Project, and shall adhere to those measures; and

(f) Additional environmental review shall be conducted for any land uses not shown in Exhibit 2, or for any intensification of the uses beyond what was analyzed in the Final EIR.

1.2 Notification of Non-Compliance of Revised Project Development

Application with this Agreement. Developer shall provide Environmental Parties and the People a copy of its application for the Revised Project or the Increased Unit Project (“**Application**”), which Developer elects to pursue, concurrently with its submittal of the application to the County. If it is apparent from the face of the Application that the Application does not comply with all of the terms and conditions set forth in Section 1.1 and the applicable provisions of Section 2 and Section 3, the Environmental Parties and the People shall notify Developer of the alleged non-compliance within one hundred and twenty (120) calendar days of their receipt of the Application. The notice required under this Section shall be accomplished pursuant to the terms set forth in Section 7.4 of this Agreement. The Environmental Parties and the People forfeit the ability to challenge what is shown expressly in the Application that was provided to them if they fail to timely notify Developer of such alleged non-compliance. Any such forfeiture does not limit the ability of the Environmental Parties and the People to enforce all other terms of this Settlement Agreement, nor does it impact the Parties’ respective rights under Section 1.4.

1.3 Environmental Review. The requirements set forth in Section 1.1, Section 2 (if applicable), and Section 3 of this Agreement are intended to reduce the environmental impacts of the Revised Project or the Increased Unit Project compared to the Project analyzed in the Final EIR. Nothing in this Agreement constitutes an agreement by any Party that the County need not conduct applicable CEQA review of the Revised Project or the Increased Unit Project. The People’s position is that the County must conduct additional environmental review of the Revised Project or the Increased Unit Project as required by CEQA, which review should include, but need not be limited to, analysis and mitigation of impacts for the Revised Project or the Increased Unit Project. The Environmental Parties agree that the Revised Project would be appropriately reviewed via an Addendum, given that it would result in fewer significant impacts than the prior approved Project.

Developer agrees to consult with the County following submission of its Application and to recommend that the County prepare an environmental review document as required by CEQA. Developer will ensure that Environmental Parties and the People are invited to participate in such consultation. If Developer applies to the County for approval of the Increased Unit Project, Developer shall present the Revised Project to the County as one of the project alternatives it recommends be studied as part of the CEQA review. The Environmental Parties and the People shall not, however, advocate for the County’s selection and adoption of the Revised Project as the preferred CEQA alternative in lieu of the Increased Unit Project in this event.

1.4 Non-Opposition.

(a) The Environmental Parties shall not (i) file any future court litigation related to the Revised Project, or (ii) submit any comments or testimony opposing the Revised Project to any government agencies in the administrative process, including any permits, entitlements, authorizations, or environmental review needed to effectuate the Revised Project. The Environmental Parties also shall not file any future court litigation or submit any comments or testimony in the administrative process that requests any additional change or modification to the Revised Project that is not required by this Agreement. Developer shall provide the Environmental Parties with written notice of any alleged breach of this term. If there is a breach, the Environmental Parties shall have thirty (30) days from the date notice is given to withdraw and

disavow the offending comments. Specific performance is the sole remedy for any breach of this term.

(b) The Environmental Parties shall not fund litigation by any third person, entity, organization, or association to challenge the Revised Project. Center for Biological Diversity, Preserve Wild Santee, California Chaparral Institute, Endangered Habitats League, and California Native Plant Society shall not oppose or advocate for any change or modification to the Revised Project that is not required by this Agreement; and shall not encourage, solicit, instigate, cooperate, or communicate with any other member, third person, entity, organization, or association to oppose or advocate for any such change or modification to the Revised Project, including as related to the attainment of any permits, entitlements, authorizations, or environmental review needed to implement the Revised Project.

(c) Notwithstanding Section 1.4(a) and (b), should Developer seek approval of the Increased Unit Project (i.e., between 1,939 and 2,750 total units), Environmental Parties may comment on, object to, and challenge whatever CEQA document the County prepares and adopts for the Increased Unit Project. However, Environmental Parties shall not argue in any judicial or administrative venue (i) that the CEQA document provides an inadequate analysis of biological impacts, wildfire impacts, and/or GHG impacts, or (ii) that the CEQA document, together with the conditions and other required mitigation measures in this Agreement, provide inadequate mitigation for biological impacts, wildfire impacts, and/or GHG impacts for the Increased Unit Project. In addition, so long as the total number of daily vehicle trips generated by the Increased Unit Project is less than or equal to the total vehicle trips generated by the prior approved Project that was analyzed in the Final EIR, and the Increased Unit Project utilizes an Environmental Impact Report, Environmental Parties are precluded from arguing that the analysis of traffic impacts is insufficient. If the Increased Unit Project does not comply with this Agreement, Environmental Parties shall be free to comment on, object to, and challenge any approvals or CEQA compliance for the Increased Unit Project without limitation. Nothing in this section shall be construed as limiting or creating an exception to Developer's obligation to ensure that the Increased Unit Project complies with the requirements of this Agreement.

(d) To the extent that Developer seeks approval for the Revised Project (i.e., no more than 1,938 dwelling units), the People agree not to oppose those portions of the Revised Project that are expressly addressed in, and are in compliance with, this Agreement. Developer shall provide the People with written notice of the nature of any alleged breach of this term and give the People thirty (30) days to cure. Specific performance is the sole remedy for any breach of this term.

(e) To the extent Developer seeks approval of the Increased Unit Project (between 1,939 and 2,750 total dwelling units) and the Increased Unit Project is in compliance with this Agreement, the People may comment on, object to, and challenge the County's CEQA document for the Increased Unit Project but may not argue (i) in any judicial venue that the document provides an inadequate analysis of biological impacts, wildfire impacts, and/or GHG impacts, (ii) in any judicial venue that the document provides an inadequate analysis of transportation impacts, so long as the total number of daily vehicle trips generated by the Increased Unit Project is less than or equal to the total daily vehicle trips generated by the prior approved Project that was analyzed in the Final EIR and the increased Unit Project's transportation analysis is included in a new or supplemental Environmental Impact Report, and (iii) in any administrative

or judicial venue that the CEQA document, together with the conditions and required mitigation measures in this Agreement, provides inadequate mitigation for biological impacts, wildfire impacts, and/or GHG impacts. If the People have concerns about the County's compliance with CEQA's requirement to disclose and analyze the Increased Unit Project's biological impacts, wildfire impacts, transportation impacts, and/or GHG impacts, the People shall request to meet and confer with Developer and County regarding such concerns and, if that meet and confer process does not resolve the People's concerns, the People may submit written comments to the County memorializing those concerns. If the Increased Unit Project does not comply with this Agreement, the People shall be free to comment on, object to, and challenge any approvals or CEQA compliance for the Increased Unit Project without limitation. Nothing in this section shall be construed as limiting or creating an exception to Developer's obligation to ensure that the Increased Unit Project complies with the requirements of this Agreement.

(f) The Environmental Parties agree to designate one or more of their organizations to work with Developer to communicate the listed species benefits of the Agreement to the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, and the San Diego Regional Water Quality Control Board (collectively, the "**Resource Agencies**") in connection with any required approvals from those agencies for the Revised Project or the Increased Unit Project.

(g) Nothing in this Agreement prohibits the Environmental Parties or the People from commenting on, supporting, and/or opposing proposed actions by any governmental authority that are generally applicable and not substantially limited to the development of the Revised Project or the Increased Unit Project, even though such proposed agency actions may have an impact on the Revised Project or the Increased Unit Project due to the general applicability of such proposed governmental actions, provided, however, that the Environmental Parties' or the People's opposition to general actions is not a mere collateral challenge to the Revised Project or the Increased Unit Project. A "mere collateral challenge" means the Environmental Parties' or the People's opposition to the general action is made solely for the purpose of challenging, hindering, or inducing change to the Revised Project or the Increased Unit Project and could have no other reasonable purpose. Examples of governmental actions of general applicability that the Environmental Parties and People are free to comment on, support, and/or oppose include, but are not limited to: rules promulgated by any local air district related to emissions; regulations promulgated by California agencies related to emissions; approval of regional transportation plans; approval of habitat conservation plans; approval of climate action plans; approval of urban water management plans; state or federal listing decisions for threatened and endangered species; land use and zoning designations; and the regulation of industrial equipment. To the extent that the People submit comments on the Revised Project or the Increased Unit Project in accordance with Section 1.4(d) and/or (e) above, such comments shall not be considered a "mere collateral challenge."

(h) The obligations of the Environmental Parties and the People in subsections (a)-(e) of this Section 1.4 shall not apply to any application for development of the Property that is not in compliance with Section 1.1, Section 2 (if applicable), or Section 3.

(i) Except for any future court litigation filed by Sierra Club related to the Revised Project, Developer shall not pursue any legal remedies against Sierra Club for any alleged violations of this Section 1.4. If the Sierra Club or any member, third person, entity,

organization or association purporting to act on behalf of Sierra Club opposes or advocates for any change or modification to the Revised Project that is not required by this Agreement, including as related to the attainment of any permits, entitlements, authorizations or environmental review needed to implement the Revised Project, and the opposition or advocacy is not authorized by Section 1.4(c) above, Developer's exclusive remedy is to submit to each approving agency a copy of the letter attached hereto as Exhibit 8.

1.5 **Non-Compliant Development.**

(a) Any development of the Property or submission of an application for development of the Property that is not in compliance with Section 1.1, Section 2 (if applicable), and Section 3 shall be a breach of this Agreement and the consent judgment entered pursuant to Section 4.2, and Environmental Parties and the People shall be entitled to seek injunctive and other such relief as determined by a court.

(b) If, due to an infirm title, Lakeview (or any successor-in-title bound by this Agreement) is legally unable to exercise the requisite control over any portion of the Property outside the Revised Development Footprint Area ("**Affected Land**") to ensure that, as required by this Agreement, development does not occur on such land, Developer shall remedy this issue in accordance with this subsection.

(1) Any settlement agreement to resolve a title dispute by which Developer agrees to relinquish title in any portion of the Affected Land shall be deemed a transfer of a portion of the Property for purposes of Section 6.1 and subject to the requirements therein.

(2) Developer shall notify Environmental Parties and the People within ten (10) days after entry of a judgment adverse to Developer's claim of title. Following such notice, the Parties shall promptly meet and confer for the purpose of developing a mutually acceptable alternative to conserving the Affected Land, and development of the Revised Project shall be suspended until the Parties develop a mutually acceptable alternative.

(3) If the Parties cannot agree on a mutually acceptable alternative, Developer shall cause other land having ecological value that is equivalent to or greater than the ecological value of the Affected Land ("**Replacement Land**") to be placed under a mutually agreed-upon perpetual conservation easement held by a qualified land trust or public agency, and shall be either land on or adjacent to the Property under Baldwin's control (and may include the Revised Development Footprint Area) or shall be acquired by Developer in the following order of geographic priority: (1) land in Southwestern San Diego County, and (2) land in the County of San Diego. The Replacement Land shall be land that is not otherwise protected from development (by this Agreement or otherwise), that contains habitat similar to the Affected Land, supports the same state and federally listed species as the Affected Land, is contiguous to (without gaps or disconnected areas) and shares a significant connection to other conserved land. The Replacement Land and form of conservation easement shall be subject to the reasonable approval of Environmental Parties and the People.

(4) Developer shall make all best efforts to complete the implementation of the mutually acceptable alternative or the acquisition of a conservation easement over the Replacement Land within one year after delivery of the notice required by

Section 1.5(b)(2). If Developer has not implemented a mutually agreed alternative or placed Replacement Land under a conservation easement in accordance with Section 1.5(b)(2) and (3) within one (1) year after the date Developer was required to give notice of its infirm title, then:

(A) Environmental Parties and/or the People may file an action seeking specific performance of Developer's obligation to provide a conservation easement on Replacement Land, and, if applicable, request an injunction against any construction on or development of the Property until such easement is recorded; or

(B) If jointly requested by Environmental Parties and the People, Developer shall place into escrow an amount of funds reasonably determined by Environmental Parties and the People as necessary to acquire a conservation easement over Replacement Land that meets the requirements of Section 1.5, based on comparable sales or other reasonable valuation method, taking into account the availability of suitable lands in the region. Following the deposit of funds into escrow for this purpose, suitable Replacement Lands shall be jointly selected by Environmental Parties and the People, who may jointly withdraw the funds to effectuate the necessary acquisition(s).

(5) If the Parties cannot agree on whether proposed Replacement Land meets the requirements of Section 1.5(b)(3), or on the amount of funds to be placed in escrow in accordance with Section 1.5(b)(4)(B), the matter shall be submitted to non-binding arbitration, the costs of which shall be borne by Developer. Notwithstanding the outcome of such arbitration, Environmental Parties and the People shall retain the right to seek specific performance or other equitable remedies to enforce Developer's obligations under Section 1.5(b).

1.6 Annexation. In the event that the Property is annexed into the City of Chula Vista ("City"), all of the terms and conditions of this Agreement shall still apply, except that (a) the City shall be substituted for the County, as applicable, wherever this Agreement references the County with respect to the review and approval of the Revised Project or Increased Unit Project (including, without limitation, subsequent environmental review and revisions to the MMRP), and (b) the time for obtaining approval for the Revised Project or Increased Unit Project as provided in Section 4.3 shall be extended by an additional six (6) months. Additionally, the obligations of the Environmental Parties and the People in subsections (a)-(e) of Section 1.4 above shall apply to any application for the Revised Project or Increased Unit Project by Developer to the City.

2. INCREASED UNIT PROJECT

2.1 Developer Option to Build Additional Dwelling Units. If Developer applies to the County for the Increased Unit Project, the following conditions shall apply:

(a) Developer shall not seek County approval to build more than 2,750 dwelling units. Should California law afford Developer the right to build more than 2,750 dwelling units as a ministerial act that does not require a discretionary agency decision under CEQA, nothing in this Agreement shall impair that right.

(b) To ensure that development of the Increased Unit Project will not cause additional impacts to biological resources, all dwelling units shall be developed within the Revised Development Footprint Area, consistent with Section 1.1 and as shown in Exhibit 2.

(c) To ensure mitigation of GHG impacts associated with the development of the Increased Unit Project, Developer shall pay into the GHG Mitigation Fund, described in Section 3.3(b) below, \$7,740 for each dwelling unit added to the current Project total of 1,938 dwelling units. Thus, for example, if Developer were to add 200 units and bring the Project dwelling unit total to 2,138 total units, Developer would be required to pay an additional one million five hundred and forty-eight thousand dollars (\$1,548,000) beyond the Mitigation Fund payment of fifteen million dollars (\$15,000,000) required by Section 3.3(b)(1) below.

(d) The mitigation measures required to be included in the Revised Project MMRP pursuant to Section 3 below shall also be included in the MMRP for the Increased Unit Project.

(e) To the extent that Developer elects to move forward with the Increased Unit Project, at least ten percent (10%) of the additional units that are approved by the County shall be affordable housing units, as defined in Health and Safety Code section 50052.5. Thus, for example, if Developer were to add 200 units and bring the project dwelling unit total to 2,138, Developer would be required to provide 20 affordable units.

3. PROJECT MITIGATION.

3.1 Compliance with Final EIR Mitigation Measures.

Except to the extent in conflict with the Revised Development Footprint Area identified in Section 1.1(a) above or the mitigation measures listed in Section 2 above (if applicable), and the mitigation measures in Sections 3.3 through 3.7, below, all elements of the previously approved Project intended to reduce environmental impacts, including without limitation the fire station and expansion of Otay Lakes Road from two-lanes to four-lanes (Final EIR Mitigation Measures M-TR-1 to M-TR-6, M-TR-9 to M-TR-10, and M-TR-13), shall be included in the Revised Project or the Increased Unit Project. In addition, Developer shall comply with all existing GHG mitigation measures in the Final EIR, except Mitigation Measures M-GCC-7 and M-GCC-8, and these mitigation measures (excluding M-GCC-7 and M-GCC-8) shall be included as part of the Revised Project or the Increased Unit Project.

3.2 Additional Mitigation Measures.

In addition to the mitigation measures identified in the Final EIR, Developer shall include and comply with the mitigation measures set forth in Sections 3.3 through 3.7 in the Revised Project or the Increased Unit Project. Developer shall request that the County incorporate these mitigation measures into the MMRP for the Revised Project or the Increased Unit Project.

3.3 Greenhouse Gases and Climate Change.

(a) On-Site GHG Emissions Reduction Measures. Developer shall reduce the Project's GHG emissions through further on-site GHG mitigation measures beyond those identified in the Final EIR. Developer shall include the following additional on-site mitigation measures in the Revised Project or the Increased Unit Project application and request that the County incorporate each of these measures into the MMRP.

(1) Installation of Solar Photovoltaic Systems.

(A) *Single-family, townhouse, and nonresidential buildings.*

(i) In order to achieve zero net energy design, Developer shall install solar photovoltaic (“PV”) systems at a capacity sufficient to cover the combined projected annual electricity consumption of all single-family (including townhouses) and nonresidential buildings (the “**Projected Demand**”), as those terms are defined in section 100.1 of the 2025 Building Energy Efficiency Standards (“**2025 BEE Standards**”), set forth in Title 24, Part 6, of the California Code of Regulations, provided, however, that the foregoing requirement shall not apply to the on-site school or fire station (the “**Excluded Buildings**”). The Projected Demand shall be determined by a consultant proposed by Developer and approved by Environmental Parties and the People (which approval shall not be unreasonably withheld or delayed) via application of the California Energy Commission’s (“CEC”) California Building Energy Code Compliance Software (“CBECC”) or other software approved by the CEC for such use. Whether the PV systems installed pursuant to this Section cover the Projected Demand shall be determined based on a numerical comparison of the Projected Demand with the electricity-generating capacity of the PV systems installed pursuant to this Section 3.3(a)(1)(A) (the “**Cumulative Capacity**”). The Cumulative Capacity shall be determined by a qualified consultant retained by Developer and approved by Environmental Parties and the People (which approval shall not be unreasonably withheld or delayed) using software approved by the CEC for such purpose. The Cumulative Capacity shall not include the capacity of PV systems installed in connection with the Excluded Buildings, except to the extent those systems are paid for by Developer and are in excess of what is required by law.

(ii) Developer shall install PV systems on all single-family (including townhouses) and nonresidential buildings as those terms are defined in section 100.1 of the 2025 BEE Standards, to the maximum extent permitted by the solar access roof area as defined in section 150.1(c)(14) and 140.10(a) of the 2025 BEE Standards.

(iii) If necessary to meet the Projected Demand after meeting the PV system requirements of Section 3.3(a)(1)(A)(i), Developer also shall install PV systems in parking lots (as defined in Section 100.1 of the 2025 BEE Standards) within the Revised Development Footprint Area, where feasible. PV systems installed by Developer on other on-site locations, including parking garages, carports, canopies (including separate garages, sheds, pergolas and similar structures) and other public areas such as park buildings and structures, libraries, and community buildings may also be counted toward Cumulative Capacity to the extent such PV systems are not otherwise required. In no event shall Developer install PV systems on any part of the Property outside of the Revised Development Footprint Area.

(iv) If necessary to meet the Projected Demand after meeting the PV system requirements of Sections 3.3(a)(1)(A)(ii) and (iii), Developer shall install PV systems in reasonably available parking lot and other locations elsewhere in San Diego County. Off-site locations for PV systems installed pursuant to this provision must be located within San Diego County’s incorporated or unincorporated areas. An off-site PV system shall qualify under this provision only to the extent that it is “additional.” For purposes of this provision, “additional” means not required by any other federal, state or local law, regulation, rule,

or condition. Developer shall demonstrate that any off-site PV systems installed pursuant to this provision meet the additionality standard identified in the prior sentence, and any PV systems installed in excess of that standard shall be included in Cumulative Capacity, but only to the extent of the excess.

(v) In order to demonstrate compliance with the requirements of Section 3.3(a)(1)(A), at the time Developer submits its development application to the County for the Revised Project or Increased Unit Project, Developer shall provide the People and Environmental Parties with a technical report that estimates the Projected Demand and Cumulative Capacity based on the general building types planned for the Revised Project or Increased Unit Project, whichever development is proposed by Developer. This report (and the subsequent accounting described in the following two paragraphs) shall be prepared by a qualified consultant retained by Developer and approved by the People and Environmental Parties, whose approval shall not be unreasonably withheld, at Developer's sole cost and expense. The consultant shall have experience utilizing California Energy Code compliance software approved by the CEC (including CBECC), as well as CEC-approved software and methodologies to estimate the electricity-generating capacity of PV systems. Developer shall provide the People and Environmental Parties with the consultant's qualifications and credentials for review prior to their approval of the consultant.

(vi) Prior to issuance of building permits for each major phase of development,² Developer also shall provide the People and Environmental Parties with an accounting of the Projected Demand for all single-family (including townhouses) and nonresidential buildings (but not the Excluded Buildings) and the Cumulative Capacity of all on-site and off-site PV systems installed to comply with Section 3.3(a)(1)(A). The accounting shall provide revised estimates of the Projected Demand and Cumulative Capacity associated with that phase of development based on the specific design and location of the buildings and PV systems that will be constructed and installed, and shall demonstrate that the energy generated by the qualifying on-site and off-site PV systems to be constructed and installed in that phase, together with the qualifying on-site and off-site PV systems constructed in any prior phase, will meet or exceed the Projected Demand of the development associated with the phase and any prior phases (as documented in the accounting and any prior accountings). The accounting may rely on anticipated excess PV capacity from future phases of the project provided that the accounting provides an estimate of the Projected Demand and Cumulative Capacity associated with the future phases that demonstrates those phases will generate the anticipated excess capacity. If the amount of anticipated excess capacity from future phases relied upon in the accounting exceeds 10 percent (10%) of the Projected Demand associated with the new phase (exclusive of prior phases), Developer shall be required to secure the approval of the People and Environmental Parties for reliance on anticipated excess capacity in future phases before proceeding with development of the phase that is the subject of the accounting exercise.

² The phasing plan for the Revised Project or Increased Unit Project, as applicable, will be prepared and submitted by Developer to the County in connection with its development application. That plan shall be referred to for purposes of implementing the requirements of this provision.

(vii) Following construction of the last single-family or nonresidential building, Developer shall provide the People and Environmental Parties with a final accounting for the project that demonstrates that the Cumulative Capacity meets or exceeds the Projected Demand. This accounting shall be based on the specific design and location of the buildings constructed and PV systems installed.

(B) *Multifamily and mixed occupancy buildings.* For each multifamily building (as defined in section 100.1 of the 2025 BEE Standards) and mixed occupancy building (as defined in Section 100.0(f) of the 2025 BEE Standards) in the Revised Project or the Increased Unit Project subject to section 170.2(f) (three habitable stories or fewer) or section 170.2(g) (more than three habitable stories) of the 2025 BEE Standards, Developer shall exceed the PV requirements of sections 170.2(f) or 170.2(g) of the 2025 BEE Standards, as applicable, by at least fifteen percent (15%). This provision does not apply to the Excluded Buildings.

(2) *Installation of Battery Energy Storage Systems.*

(A) *Single-family and townhouse buildings.* For each single-family and townhouse for-sale building, Developer shall either (i) install a battery energy storage system at the time of initial construction or (ii) offer to install a battery energy storage system at the time of initial sale, if paid for by the buyer, and shall offer at least a \$2,000 credit to each buyer that has elected to do so.

(B) *Multifamily, mixed occupancy, and nonresidential buildings.* Developer shall install battery energy storage systems in all multifamily buildings, mixed occupancy (as defined in Section 100.0(f) of the 2025 BEE Standards), and nonresidential buildings to the extent required by the 2025 BEE Standards or a subsequent iteration of the BEE Standards applicable at the time of building construction, whichever is more stringent.

(3) *Full electrification.*

(A) Developer shall ensure that all buildings, including residential and commercial development and the on-site school and fire station buildings, are fully electric.

(B) Developer shall not install any natural gas infrastructure for the Revised Project or the Increased Unit Project.

(C) Developer shall ensure that any Covenants, Conditions and Restrictions (“CC&Rs”) for the Revised Project or the Increased Unit Project prohibit the installation of infrastructure for natural gas.

(4) Electric vehicle charging.(A) Residential buildings.

(i) Single-family buildings. Developer shall install in each residential garage for single-family buildings one 208/240 branch circuit outlet suitable for electric vehicle (“EV”) charging, as required by Final EIR Mitigation Measure M-GCC-6.

(ii) Multifamily buildings with dedicated garages. Developer shall install in each attached or detached garage that is specific to a multifamily residential unit (e.g., townhouses and apartments) one 208/240 branch circuit outlet per garage suitable for EV charging.

(iii) Multifamily buildings with shared parking. Developer shall install in all shared parking areas made up of parking stalls/spaces that serve multifamily residential units EV charging receptacles and Level 2 EV supply equipment that comply with the Tier 2 standards for the quantities and design attributes set forth in Section A4.106.8.2.1 of the 2022 California Green Building Standards, as amended by the Supplement dated July 1, 2024 (“**2022 GB Standards**”), set forth in Title 24, Part 11 of the California Code of Regulations.

(B) Nonresidential buildings.

(i) Developer shall comply with the Tier 2 standards for the quantities and design attributes of EV capable parking spaces and Level 2 EV supply equipment set forth in Section A5.106.5.3.3 of the 2022 GB Standards for the parking spaces located in the commercial development area and all school and park areas. Developer shall site dedicated EV spaces in preferential locations, except the EV capable parking spaces shall not be located in a way that prevents compliance with requirements in the California Vehicle Code regarding parking spaces for disabled persons or disabled veterans. Signage at each dedicated EV capable parking space shall state the parking space is for EVs only and improperly parked vehicles will be towed.

(5) Landscape equipment. Developer shall prohibit the use of gas-powered landscape maintenance equipment on the Revised Development Footprint Area. This prohibition shall be included in the CC&Rs for the Revised Project or the Increased Unit Project.

(6) Energy efficiency.

(A) Developer shall ensure that all appliances in all structures, including but not limited to water heaters, space conditioning systems, and cooking stoves, operate on electricity.

(B) Developer shall install in each building high-efficiency heat pumps that comply with, at a minimum, the 2025 BEE Standards for all space heating and cooling and water heating. In addition, all heat pump space conditioning systems shall meet or exceed the applicable EnergyStar specification, and all heat pump water heating systems

shall meet or exceed the NEEA 8.1 Advanced Water Heating Specification. All other end uses with a power draw more than 120 volts shall be served by high efficiency electric appliances. High efficiency electric appliances are defined as appliances that (1) meet or exceed EnergyStar specifications, or (2) if EnergyStar specifications are not available, exceed the minimum energy efficiency standards set by the U.S. Department of Energy, the State of California, or the San Diego County Air Pollution Control District, whichever standard is the most stringent.

(b) GHG Mitigation Fund.

(1) Amount. Developer shall provide funding in the amount of fifteen million dollars (\$15,000,000.00) (“**Mitigation Fund**”) as additional mitigation for the Revised Project’s GHG emissions remaining after on-site mitigation.

(2) Recipient. The Mitigation Fund payment shall be made to a qualified third-party non-profit organization (“**Fund Administrator**”), which shall be selected by the People following consultation with the Environmental Parties and monitored by the Environmental Parties and the People. The People, in consultation with the Environmental Parties, shall use best efforts to select the Fund Administrator prior to the first payment as outlined in Section 3.3(b)(4)(A).

(A) In the event (1) the Fund Administrator has not been selected and/or the Mitigation Fund has not been established by the Fund Administrator by the date the first payment is due under Section 3.3(b)(4)(A), or (2) the Administrator Agreement is terminated and a Replacement Fund Administrator must be selected, Developer shall create an escrow account (the “**Mitigation Fund Escrow Account**”) to hold payments required for the Mitigation Fund pursuant to Sections 3.3(b)(1) and (5). Developer shall be responsible for paying all escrow or other fees required to establish and maintain the Mitigation Fund Escrow Account.

(B) The People shall, following consultation with the Environmental Parties, enter into an agreement with the Fund Administrator (“Administrator Agreement”), which shall be consistent with the protocol and standards for the creation and implementation of the Mitigation Fund set forth in Exhibit 3 hereto (the “**GHG Mitigation Fund Protocol**”). The Parties agree that the Environmental Parties and the People shall not assume legal liability for any alleged shortcoming in the selection of the Fund Administrator, the entry to an agreement with the Fund Administrator, the monitoring of the Fund Administrator’s activities, or the implementation of the Mitigation Fund.

(3) Use of Mitigation Fund.

(A) The Fund Administrator shall use the Mitigation Fund to pay for GHG emissions reduction activities exclusively within the County of San Diego (including incorporated and unincorporated communities), which activities shall adhere to standards set forth in the GHG Mitigation Fund Protocol and are anticipated to result in local co-benefits (the “**Mitigation Program**”).

(B) As part of the Mitigation Program, up to two million dollars (\$2,000,000) of the Mitigation Fund amount may be used by Developer to provide battery energy storage systems in single-family buildings, as that term is defined in Section 3.3(a)(2)(A) of

this Agreement (“**Battery Credit**”). The Battery Credit shall consist of the actual costs of battery energy storage systems for single-family buildings, inclusive of installation costs, incurred by Developer and documented in accordance with Section 3.3(b)(5). If Developer fails to spend the full Battery Credit on eligible costs, the remainder shall be paid to the Fund Administrator consistent with the GHG Mitigation Fund Protocol and Sections 3.3(b)(2) and (4) of this Agreement.

(4) Manner and timing of payments. Developer shall pay the Mitigation Fund amount (\$15 million), minus any Battery Credit pursuant to Section 3.3(b)(3)(B), plus any additional payments required by Section 2.1(c), to the Fund Administrator or to the Mitigation Fund Escrow Account, as appropriate pursuant to Section 3.3(b)(2)(A), in accordance with the terms and conditions of the GHG Mitigation Fund Protocol and the following schedule:

(A) Developer shall pay one and a half million dollars (\$1,500,000.00) following Developer’s receipt of the later of (i) its first tentative map approval from the County and (ii) any permits from the Resource Agencies necessary for the commencement of development within the tentative map area; but in no case later than the issuance of the first grading permit.

(B) Developer shall pay an additional one and one-half million dollars (\$1,500,000.00) prior to issuance of the first grading permit.

(C) Developer shall pay an additional three million dollars (\$3,000,000.00) prior to issuance of the first building permit.

(D) Developer shall pay an additional three million dollars (\$3,000,000.00) prior to issuance of the five hundredth building (500th) building permit.

(E) Developer shall pay an additional three million dollars (\$3,000,000) prior to issuance of the one-thousandth (1,000th) building permit, less the amount Developer has incurred on expenditures eligible for the Battery Credit, as documented in accordance with Section 3.3(b)(5).

(F) Developer shall pay an additional three million dollars (\$3,000,000.00) prior to issuance of the one thousand five hundredth (1,500th) building permit, less any additional amount not already credited that Developer has incurred on expenditures eligible for the Battery Credit, as documented in accordance with Section 3.3(b)(5).

(G) If Developer elects to pursue the Increased Unit Project, Developer shall pay an amount equal to the per unit payment amount identified in Section 2.1(c), above, times the number of units in the Increased Unit Project in excess of 1,938 (“**Additional Units**”), as follows:

(i) If the total number of approved units is greater than 1,938 units and less than or equal to 2,188 units, Developer shall make a payment in the amount required for the Additional Units prior to issuance of the building permit for the 1,939th unit.

(ii) If the total number of approved units is greater than 2,188 units and less than or equal to 2,438 units, Developer shall make a payment in the amount required for 250 units prior to issuance of the building permit for the 1,939th unit, and another payment in an amount equal to the remaining Additional Units prior to issuance of the building permit for the 2,189th unit.

(iii) If the total number of approved units is greater than 2,438 units and less than or equal to 2,688 units, Developer shall make two payments each in the amount required for 250 units, the first prior to issuance of the building permit for the 1,939th unit and the second prior to issuance of the building permit for the 2,189th unit, and shall make another payment in an amount equal to the remaining Additional Units prior to issuance of the building permit for the 2,439th unit.

(iv) If the total number of approved units is greater than 2,688 units, Developer shall make three payments each in the amount required for 250 units, the first prior to issuance of the building permit for the 1,939th unit, the second prior to issuance of the building permit for the 2,189th unit, and the third prior to issuance of the building permit for the 2,439th unit, and shall make another payment in an amount equal to the remaining Additional Units prior to issuance of the building permit for the 2,689th unit.

(H) Until the Developer has made all of the payments required under this Section 3.3(b)(4), Developer shall provide to the People and Environmental Parties a report every six months (on January 15 and June 15 each year) documenting the status of all project approvals and permits related to the timing of payment, and all payments made, through the date of the report.

(5) Final accounting. Prior to providing the payment described in Section 3.3(b)(4)(E) and (F), and consistent with Section 3.3(b)(3)(B), Developer shall provide an accounting to Environmental Parties and the People. The accounting shall include records and receipts evidencing the cost of providing battery energy storage systems within the development. If an Environmental Party or the People disputes Developer's accounting, then no later than thirty (30) days after the disputing Party's receipt of the accounting and supporting materials, the disputing Party shall notify Developer and the other Parties in writing of the dispute. No later than thirty (30) days after receipt of the notice, Developer and the disputing Party shall meet and confer in good faith to seek a resolution to the dispute. An action for breach of Developer's obligation to make the applicable payment shall not be filed until after the meet and confer has occurred, or thirty (30) days have elapsed since the notice of dispute, whichever is earlier.

(6) Administrative Costs. The Fund Administrator may use up to ten percent (10%) of the Mitigation Fund for administrative and overhead costs, including but not limited to costs for the retention of a consultant with GHG mitigation expertise and attorneys to assist with development and implementation of the Mitigation Program; provided however that if Environmental Parties and the People determine after reasonable diligence that a qualified Fund Administrator cannot be secured without increasing the allowance for administrative and overhead costs, that allowance may be increased to the amount reasonably necessary to successfully implement the program. In addition, the People may request reimbursement of its reasonable expenses, including attorneys' fees, incurred in carrying out its responsibilities under the GHG Mitigation Fund Protocol attached as Exhibit 3, subject to approval by the Environmental Parties.

(7) Substitution of Offset Mitigation. The Environmental Parties, the People, and Developer shall jointly request that the County approve using the above payment for funding local GHG emissions reduction measures in lieu of the Final EIR's adopted Mitigation Measures M-GCC-7 and M-GCC-8 that allow for the purchase of carbon offset credits, in substantially the form of Exhibit 9.

3.4 Wildfire.

(a) Surveillance. To enhance the existing wildfire surveillance program by the County and San Diego Gas and Electric Company, which includes three existing surveillance cameras on Otay Mountain, San Miguel Mountain, and Sycuan Peak, Developer shall, within ninety (90) days of the Effective Date, enter into an agreement with the San Diego County Fire Protection District ("SDCFPD") to contribute thirty thousand dollars (\$30,000) towards SDCFPD's cost of purchasing, installing, and operating one additional surveillance camera in a location in the vicinity of the Property to be determined by SDCFPD.

(b) Fire suppression.

(1) Developer shall ensure sprinkler systems on multifamily buildings meet National Fire Protection Association Standard 13 (Standard for the Installation of Sprinkler Systems), or equivalent.

(2) Developer shall install exterior sprinklers on all buildings at the perimeter of the Revised Development Footprint Area.

(c) Wildfire Evacuation. To provide additional capacity for vehicles in the event of an emergency evacuation, Developer shall grade and stabilize Otay Lakes Road to an all-weather, drivable condition that accommodates four lanes of travel: (1) for that segment between Lake Crest Drive to the western entrance to the Project prior to the construction of the 384th dwelling unit; and (2) for that segment between the western entrance to the Project and the eastern entrance of the Project prior to the later of (i) the construction of the 384th dwelling unit or (ii) the opening of the eastern entrance to use by Project residents. If constructing four lanes as shown in the final project approvals would require acquisition of rights in property not owned by Developer, and Developer has been unable to acquire those rights in time to meet the foregoing deadlines despite using its best efforts to do so, then Developer shall grade and stabilize Otay Lakes Road to an all-weather, drivable condition that accommodates at least one lane of travel in the southeast bound direction and two lanes of travel in the northwest bound direction by the foregoing deadlines, and shall grade and stabilize a fourth lane of travel at the earliest feasible time following acquisition of the necessary property interests. The segments of Otay Lakes Road described herein shall be fully improved and paved to four lanes prior to construction of the 896th equivalent dwelling unit.

In addition, as part of any environmental review for the Revised Project or Increased Unit Project, Developer shall submit and make available for public review the *Otay Ranch Village 13 Alternative I Fire Evacuation Analysis – Technical Memorandum* (November 2024) prepared by Dudek and CR Associates, which is attached as Exhibit 7.

(d) Fire avoidance. Developer shall include provision(s) in the CC&Rs for the homeowner's association ("HOA") requiring that residents and agents of the HOA avoid high ignition risk activities on National Weather Service-declared red flag days, including but not limited to outdoor grilling, outdoor fires including use of fire pits, use of lawnmowing and other outdoor motorized equipment for landscaping purposes, fireworks, and outdoor smoking.

(e) Fire education. Developer shall provide perpetual access to an educational program for Revised Project or Increased Unit Project residents on wildfire ignition prevention, which may be provided online.

3.5 Fuel Modification Zone/Wildlife Buffer Zone and Preserve.

The provisions of this Section concern alterations to and management of the FMZ and Preserve Edge Plan identified in the Final EIR.

(a) Reconfiguration. Developer shall reconfigure the FMZ as follows:

(1) Provide a minimum of twenty-foot deep backyards for dwellings with yards along the FMZ ("**Backyard Buffer**"). Landscaping, irrigation and maintenance of the Backyard Buffer shall be the responsibility of individual homeowners, not Developer. However, the CC&Rs for the Revised Project or the Increased Unit Project shall include a provision requiring that all yards along the FMZ with the Backyard Buffer be a formally designated part of the FMZ and be landscaped with fire-resistant plants, and that construction of flammable structures in those yards (including accessory dwelling units (ADUs), residential additions, wood shade structures and sheds) is prohibited.

(2) Provide a non-irrigated, one hundred (100)-foot fuel modification and buffer zone consisting of thirty (30) feet of fire-resistant native vegetation and seventy (70) feet of thinned native vegetation ("**FMZ/Buffer**"). No permanent irrigation may occur within the FMZ/Buffer. Temporary irrigation may be conducted to establish plantings of native vegetation on manufactured slopes within the FMZ/Buffer, but shall be subject to best management practices and shall be discontinued (including removal of irrigation infrastructure and devices) within three (3) years of installation.

(3) No FMZ or permanent irrigation shall be developed around the water tank or water tank access road unless an FMZ or permanent irrigation is required by the water agency having jurisdiction. The Environmental Parties, the People, and Developer shall jointly request that the water agency having jurisdiction not require an FMZ or permanent irrigation around the water tank or water tank access road.

(b) Preserve. The provisions in this subsection address how the open space lands within the Property shall be held and managed, and the extent to which those lands may be used as mitigation for either the Revised Project or the Increased Unit Project. Attached to the Agreement as Exhibit 11 is a map depicting: (i) the open space portions of the Project as originally approved by the County on November 18, 2020 ("**Original Open Space**") (shown in white), which have been or will be dedicated to the Otay Ranch Preserve pursuant to the County-adopted Otay Ranch Resource Management Plan ("**RMP**"), and (ii) the Additional Open Space (defined to include the area shown in green *and* a 50-acre portion of the area shown in yellow with

cross hatching as determined pursuant to Section 3.5(b)(3) below). The provisions below refer to the map attached as Exhibit 11.

(1) The Additional Open Space may be used to satisfy mitigation requirements only for the Revised Project or the Increased Unit Project (but such use shall not be a substitute for or otherwise relieve Developer from compliance with any mitigation measures imposed on the original Project and made applicable to the Revised Project or Increased Unit Project under Section 3.1, and shall not be used to satisfy the ratio-based mitigation required by the RMP) and shall not be used as mitigation for any other project. Further, the Additional Open Space: (i) shall be ineligible for future development; (ii) shall be placed under a permanent conservation easement that cannot be vacated without judicial proceedings; and (iii) shall be dedicated to the Otay Ranch Preserve Owner Manager (“**POM**”), either in fee or as holder of the conservation easement described in clause (ii), to become part of the Otay Ranch Preserve established pursuant to the Otay Ranch RMP. If the POM cannot or will not serve as the holder of the permanent conservation easement, Developer shall convey the permanent conservation easement to a qualified conservation easement holder (“**Alternate Holder**”). The Additional Open Space shall not be owned or managed by the HOA.

(2) A substantial portion of the Original Open Space has been or is intended to be dedicated to the Otay Ranch Preserve pursuant to the Otay Ranch RMP to mitigate the impacts of three already-entitled projects: Village 2, Village 4, and Village 7. The Original Open Space lands may be used to satisfy the mitigation requirements of the RMP for the Villages 2, 4 and 7 projects, but shall not otherwise be used to satisfy any other mitigation requirements for any project other than the Revised Project or Increased Unit Project. In addition, the Original Open Space shall be placed under a permanent conservation easement in the same manner as the Additional Open Space, and shall not be owned or managed by the HOA.

(3) The boundary between the Additional Open Space and the Revised Development Footprint within the area depicted on Exhibit 11 labeled “Selection Area for Additional 50-Acre Conservation Area” (“**Selection Area**”) (see area shown in yellow with cross hatching) shall be modified in accordance with the following procedures:

(A) Developer shall give the People, Environmental Parties and their respective consultants a right of entry onto the Property for purposes of assessing the configuration of the 50 acres of Additional Open Space lying within the Selection Area (“**50 Acres**”). The right of entry shall consist of one site visit (of up to six hours, in the sole discretion of the People and Environmental Parties) on a mutually agreed date, and a second site visit within 15 days thereafter for the purpose of GIS mapping any proposed changes to the boundary. Developer shall offer a reasonable range of proposed dates for the site visit. The first site visit shall occur within 15 days after the Effective Date unless the People, Environmental Parties and their consultants are not available on the offered dates, in which case the site visit will occur as soon as practicable thereafter.

(B) No later than 30 days after the site visit occurs, the People and Environmental Parties shall notify Developer of the boundary of the 50 Acres (“**Boundary Notice**”). The Boundary Notice shall include a proposed boundary. Developer shall reasonably cooperate with the People and Environmental Parties to refine the proposed boundary to ensure that the reconfigured 50 Acres (1) encloses no more, and no less, than 50 acres (within an

accuracy of +/- 0.5 acre), (2) is contiguous with adjacent Additional Open Space, (3) does not create islands or peninsulas of development footprint within it, (4) is not otherwise unreasonably configured in a manner that would render development infeasible within the remainder of the Selection Area, and (5) does not have an unintended impact to the grading or drainage pattern in the remaining development footprint. The Parties shall use their best efforts to reach agreement on the proposed boundary within 30 days after delivery of the Boundary Notice. Developer shall approve the final boundary agreed to by the People and Environmental Parties unless that boundary does not meet the requirements set forth in clauses (1) through (5) of this paragraph.

(C) Upon written approval of the final boundary by all Parties, which written approval shall not be unreasonably delayed, the boundary between the Additional Open Space and the Revised Development Footprint Area within the Selection Area shall be deemed modified in accordance with the final boundary without the need to execute a formal amendment of this Agreement. The written approvals shall be by reference to an amended Exhibit 2 and an amended Exhibit 11 prepared by the Parties to reflect the final boundary.

(D) Within 15 days after the Parties' written approval of the final boundary, the Parties shall enter into an amendment of the memorandum of this Agreement recorded pursuant by Section 6.2 to reflect the final boundary, which amendment shall include the amended Exhibit 2 as an attachment, and shall record or cause to be recorded the amended memorandum in the official records of the County.

(c) Invasive species control.

(1) Developer shall provide for a permanent program ensuring control and removal of non-native grasses and weeds, and control of non-native invertebrates from the FMZ/Buffer. The Quino Management Plan and/or the Preserve Edge Plan shall include provisions for the strict annual control of non-native grasses/weeds and non-native invertebrates within the FMZ/Buffer.

(d) Runoff management. Developer shall design the Revised Project or the Increased Unit Project to prevent non-stormwater runoff from entering the FMZ/Buffer and the Preserve, including runoff from irrigated landscaping in backyards, manufactured slopes, and other irrigated landscapes.

(e) Litter management. Developer shall include in the Quino Management Plan and/or the Preserve Edge Plan a program for monitoring and removing refuse from the FMZ/Buffer and the Preserve.

(f) Restrict access.

(1) Developer shall prevent public access, including access by residents and recreational access by the public, from the Revised Development Footprint Area (including Otay Lakes Road therein) into the FMZ/Buffer and Preserve. Developer shall construct or require to be constructed walls, fences, or other appropriate barriers to ensure there is no access, including from backyards, parks, paths, or streets, into the FMZ/Buffer and Preserve. If fencing is used, then fences shall be spaced bar fencing unless otherwise approved by Environmental Parties.

(2) Developer shall ensure that public access from the Revised Development Footprint Area to the water tank and access road, and from the water tank and access road to the Preserve, is prevented by installing or requiring to be installed appropriate fencing and signs at the entrance to the access road from the Project and along the edges of the access road and water tank.

(3) As set forth in the Final EIR, Developer shall prevent public use of the Preserve. This shall be achieved by funding the POM (or Alternate Holder), in the amount of twenty-five thousand (\$25,000) annually, to hire a private security firm with substantial experience patrolling open space, mutually acceptable to the POM (or Alternate Holder) and Environmental Parties and subject to Developer's reasonable approval, to enforce no-trespass, including by pedestrians, off-highway vehicles ("OHVs"), electric bicycles or similar devices, and mountain bikes. The first annual payment of twenty-five thousand dollars (\$25,000) shall be made within thirty (30) days of approval of the Revised Project or the Increased Unit Project, and each subsequent payment shall be made on the anniversary of the date upon which the prior payment was due. Developer shall ensure that the CC&Rs provide that, no later than the date that Developer has transferred all of its interests in the Property, the HOA shall assume Developer's payment obligation under this paragraph in perpetuity.

(4) Beginning with the second payment, the amount of each annual payment shall be increased by a percentage equal to any annual increase in the Consumer Price Index (most recent October over October time period) for All Urban Consumers (not seasonally adjusted) San Diego-Carlsbad area as published by the Bureau of Labor Statistics, U.S. Department of Labor, rounded to the nearest whole \$1. In no case shall the maximum increase exceed 5% in any one year. The obligation for this funding can be met through either a community financing district or an HOA, at the Developer's sole discretion.

(g) Water tank utilities. Developer shall locate water piping and other utilities between the water tank and other development areas within the impact area of the water tank access road, unless the water agency having jurisdiction or the water pressure needs of the development require a different alignment or location for the water piping, in which case the Developer shall mitigate any biological impacts associated with installation of the water piping to pre-installation conditions.

(h) Perimeter trail.

(1) The Parties shall jointly request to the County that the perimeter trail be eliminated from the Revised Project or the Increased Unit Project.

(2) If the County refuses the Parties' joint request and the perimeter trail is constructed, the following provisions shall apply:

(A) Developer shall locate the perimeter trail within the FMZ/Buffer and not within the Preserve.

(B) The perimeter trail may serve to provide access for emergency fire vehicles, if appropriate.

(C) Developer shall limit public access from the Revised Development Footprint Area to designated trail access points. Such trail access points shall be located in the same locations as emergency vehicle access from the development area to the FMZ/Buffer.

(D) Developer shall prevent public access, including recreational access, from the trail into the Preserve by installing appropriate fencing on the Preserve side of the trail, which fencing shall include closure signs.

3.6 Scrub Oak Mitigation.

(a) Developer shall preserve existing scrub oaks on-site in situ as landscaping or as an amenity to the development to the extent feasible.

(b) Where preservation of some on-site scrub oaks is not feasible and scrub oaks are removed, Developer shall plant *Quercus dumosa* scrub oaks at a 2:1 mitigation ratio for scrub oaks taken. Determination of the amount of on-site scrub oaks, and required mitigation, shall be calculated by a qualified biologist within thirty (30) days of the Effective Date of this Agreement. Scrub oaks used for mitigation shall be propagated from scrub oak acorns (or cuttings, if feasible and desired) collected from the Property and used for planting in Project-related development landscaping, Project open space, or the Preserve as appropriate for the species.

(c) Developer shall allow Environmental Parties or their designee to collect acorns from scrub oaks on the Property from which to propagate scrub oak seedlings. Acorns shall be collected annually every fall prior to grading, until sufficient acorns are obtained for propagation of enough scrub oaks to achieve a 2:1 mitigation planting ratio.

(d) If a sufficient number of acorns cannot be collected on-site (for example, due to drought conditions), Developer shall make up the deficit by securing from local nurseries *Quercus dumosa* scrub oaks propagated from acorns collected at the closest available location.

3.7 Other Biological Resource Mitigation.

Developer shall allow Environmental Parties or their designee to collect seeds and salvage any biological resources on a seasonal or as-needed basis, within reason, prior to any grading.

3.8 Covenants, Conditions and Restrictions.

Developer shall ensure that the CC&Rs for the Revised Project or the Increased Unit Project: (a) acknowledge and provide that the Property is subject to the rights and obligations of Developer set forth in this Agreement; (b) include provisions to incorporate the requirements set forth in Sections 3.3(a)(3)(C), 3.3(a)(5), 3.4(d), 3.5(a)(1), and 3.5(f)(3); and (c) provide that the CC&R provisions required by this Section 3.8 are not amendable without the consent of, and may be enforced by, the Environmental Parties and the People. For avoidance of doubt, the term CC&Rs as used in this Agreement includes any document meeting the definition of a declaration under Section 4135 of the Civil Code, however denominated.

4. LITIGATION PROCEDURES.

4.1 Stay of Proceedings.

(a) Stay. The Parties shall use their best efforts to promptly obtain a stay of proceedings in the Lawsuit. The stay shall be structured to remain in place until the occurrence of the triggering events set forth in this Agreement. Specifically, the Parties shall promptly seek to file a joint motion requesting a stay of proceedings until either a consent judgment is entered pursuant to Section 4.2, or the litigation is resumed pursuant to Section 4.3 (“**Joint Motion**”). The Joint Motion shall also request approval of a conditional consent judgment as provided in Section 4.2.

(b) Meet and confer if no stay granted. If an order approving the stay and conditional consent judgment substantially consistent with the terms and conditions herein has not been entered by the court within sixty (60) days after the Effective Date, the Parties shall meet and confer regarding an appropriate response. In that event, this Agreement shall terminate ninety (90) days after the Effective Date unless the Parties mutually agree otherwise in writing.

(c) Maintenance of status quo during stay. Developer shall not take any action that may cause significant adverse physical changes to the Property while any stay entered in response to the Joint Motion is in effect, including, without limitation, performing any ground- or vegetation-disturbing activities (i.e., site preparation or grading) of the Property (each such activity, or collectively, “**Development**”).

4.2 Consent Judgment. The Joint Motion shall include a request for a court order approving a conditional consent judgment, in substantially the form of Exhibit 4, and requesting that the consent judgment be entered within ten (10) days after the later of the (1) the County’s approval of a Revised Project or an Increased Unit Project that complies with Section 1.1, Section 2 (if applicable), and Section 3 of this Agreement, and (2) the receipt in full of the Attorneys’ Fees Payment in accordance with Section 5.

4.3 Resumption of Litigation. If the County has not approved a Revised Project or an Increased Unit Project that complies with Section 1.1, Section 2 (if applicable), and Section 3 of this Agreement within twenty four (24) months after the Effective Date (“**Outside Approval Date**”), which date shall be automatically extended by six (6) months upon the request of Developer up to three times (for a maximum eighteen (18) month extension) and further extended – as needed – by the Parties upon mutual written agreement, the Parties shall meet and confer no later than thirty (30) days after the Outside Approval Date. The purpose of the meet and confer is to determine if a mutually agreeable modification to this Agreement can resolve any County objections or concerns such that the Revised Project or an Increased Unit Project may be approved; or, in the event the County has approved a Revised Project or an Increased Unit Project that does not comply with Section 1.1, Section 2 (if applicable), and Section 3, to determine whether a mutually agreeable modification to this Agreement can be reached that renders such changes to the Revised Project or an Increased Unit Project by the County acceptable. If the Parties, each in their sole discretion, have not agreed to modify this Agreement within sixty (60) days after the Outside Approval Date, then, upon notice to the court by any Party, the stay of proceedings in the Lawsuit shall be lifted and the Lawsuit resumed, in which event the

Environmental Parties' and the People's claims for attorneys' fees or costs shall not be deemed resolved and this Agreement shall terminate.

4.4 Approval of Revised Project. For purposes of Section 4.3 of this Agreement, the Revised Project or an Increased Unit Project shall be considered "approved" when all of the following have occurred: (1) the previously approved tentative map(s) and site plan for the Property have been rescinded, modified or amended to reflect the Revised Project or an Increased Unit Project, (2) the general plan maps applicable to the Property and the previously approved specific plan for the Property have been amended (and, if necessary, any other conforming amendments to the zoning code have been approved) to conform to Section 1.1, and (3) if any of the foregoing approvals require adoption of an ordinance, the ordinance has been approved after second reading.

5. ATTORNEYS' FEES.

5.1 Developer shall tender payment to Environmental Parties and the People in the amount of one million, nine hundred ninety-nine thousand dollars (\$1,990,000.00) ("**Attorneys' Fees Payment**"), in full satisfaction of any claims for attorneys' fees and costs incurred in the Lawsuit. Developer understands that this total Attorneys' Fees Payment will be distributed among, and paid separately to, multiple payees. The name of the payee, amount to be tendered to each payee, and the method and timing of payment to each payee is listed in Exhibit 5. Payment shall be made by delivering checks payable to, or wiring funds to the accounts of, the payees specified in Exhibit 5. Within thirty-five (35) days after the Effective Date, Developer shall make payments totaling nine hundred and fourteen thousand dollars (\$914,000.00) ("**Initial Payments**") to the payees entitled to receive an Initial Payment as specified in Exhibit 5, in the amounts specified therein. Within thirty-five (35) days after the date on which the County has approved a Revised Project or an Increased Unit Project that complies with Section 1.1, Section 2 (if applicable), and Section 3, Developer shall make payments of the remainder of the Attorneys' Fees Payment ("**Final Payments**") to the payees entitled to receive a Final Payment as specified in Exhibit 5, in the amounts specified therein. Developer shall be solely responsible for its own costs and attorneys' fees relating to the Litigation.

5.2 No later than sixty (60) days after the Effective Date, Developer shall, at its sole expense, obtain a standby letter of credit ("**LOC**") in substantially the form of Exhibit 12, for each Party to whom a fee payment is owed, guaranteeing payment of the amount owed, and shall comply with the requirements of Exhibit 13.

6. MISCELLANEOUS.

6.1 Binding on Successors; Running with the Land. The covenants, terms, conditions, and restrictions of this Agreement, including the Attorneys' Fees Payment and all Exhibits, shall be binding upon, and inure to the benefit of, the Parties hereto and their respective personal representatives, heirs, successors, and assigns. Where rights accrue to or obligations are imposed on Developer in this Agreement, such rights and obligations shall constitute a servitude running with the applicable portion of the Property and shall run with the land. Developer shall provide sixty (60)-day written notice to Environmental Parties and the People of any intent to transfer the Property or any associated entitlements, or any portion thereof. Developer agrees that any such transfer shall include a written, recorded agreement by which all Developer's rights and

obligations under this Agreement are assigned to and assumed by transferee. Nothing in this Agreement shall prevent, delay or limit a lien holder's ability to foreclose on the Property; and, the Parties agree that the ability of the Environmental Parties and the People to pursue injunctive and other such relief under Section 1.5(a) shall not be used to impair a lien holder's ability to foreclose on the Property in a timely manner. As provided above, the covenants, terms, conditions, and restrictions of this Agreement, including the Attorneys' Fees Payment and all Exhibits, shall be binding upon, and inure to the benefit of, the Parties hereto and their respective personal representatives, heirs, successors, and assigns, and, as applicable, shall run with the land, in the event of Property foreclosure.

6.2 Memorandum of Agreement. Within ten (10) days of the Effective Date, Developer shall cause a memorandum of this Agreement substantially in the form of Exhibit 6 to be recorded against the Property in the Official Records of the County of San Diego, to provide record notice of the terms and conditions of this Agreement to future owners of the Property. Developer shall provide a copy of the recorded memorandum to all Parties promptly upon return of the recorded document from the County of San Diego.

6.3 Subordination of Existing Liens. Within 30 days after the Effective Date, Developer shall (i) provide to Environmental Parties and the People with a preliminary title report for the Property from a reputable title insurer that is current as of the Effective Date or later, (ii) cause the holders of all mortgages, deeds of trust, or other monetary liens appearing on the title report ("**Existing Liens**"), if any, to enter into an agreement with the Parties subordinating the Existing Liens to this Agreement, which agreement shall be substantially in the form of Exhibit 10 and shall be recorded, and (iii) after all required subordination agreements have been recorded for all Existing Liens, provide Environmental Parties with an updated preliminary title report showing no mortgages, deeds of trust or other monetary liens on title other than the subordinated Existing Liens. Notwithstanding anything to the contrary in this Agreement, the obligations of Environmental Parties and the People under this Agreement shall be conditioned on the subordination of all Existing Liens to this Agreement in accordance with this section.

6.4 No Monetary Damages. Except to the extent this Agreement expressly obligates a Party to pay money, including attorneys' fees and costs, no Party shall seek or be entitled to any monetary damages in the event of any breach or default under this Agreement.

6.5 Notice. Each Party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "**Notice**") in writing and addressed to any other Party at the corresponding address set out below (or to any other address that a receiving Party may designate from time to time in accordance with this Section). Each Party shall deliver all Notices by electronic mail (with confirmation of receipt), by personal delivery, nationally recognized overnight courier (with all fees prepaid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section. Any Party hereto may at any time, by giving ten (10) days' written notice to the other Party hereto, designate any other person or address in substitution of the address to which such notice shall be given.

If to Center for Biological Diversity, Preserve Wild Santee or California Chaparral Institute:

Center for Biological Diversity
2100 Franklin St., Suite 375
Oakland, CA 94612
Attn: Peter Broderick
Email: pbroderick@biologicaldiversity.org

If to Endangered Habitats League:

Endangered Habitats League
8424 Santa Monica Blvd., Suite A 592
Los Angeles, CA 90069-4267
Attn: Dan Silver, Executive Director
Email: dsilverla@me.com

with a copy to:

Shute, Mihaly & Weinberger LLP
296 Hayes Street
San Francisco, CA 94102
Attn: Laura D. Beaton
Email: beaton@smwlaw.com

If to California Native Plant Society:

California Native Plant Society
2707 K Street, Suite 1
Sacramento, CA 95816-5130
Attention: Nick Jensen, Conservation Program Director
Email: cnps@cnps.org, njensen@cnps.org

with a copy to:

Shute, Mihaly & Weinberger LLP
296 Hayes Street
San Francisco, CA 94102
Attn: Laura D. Beaton
Email: beaton@smwlaw.com

If to Sierra Club:

Sierra Club
4241 Jutland Dr., Ste 303
San Diego, CA 92117
Attn: Peter Andersen
Email: westone47@gmail.com

Sierra Club
Aaron Isherwood or Coordinating Attorney
2101 Webster St., Suite 1300
Oakland, CA 94612
Email: aaron.isherwood@sierraclub.org

with a copy to:

Chatten-Brown Law Group, APC
325 W. Washington Street, Suite 2193
San Diego, CA 92103
Attn: Josh Chatten-Brown
Email: jcb@chattenbrownlawgroup.com

If to the People:

Office of the Attorney General
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
Attn: Catherine M. Wieman, Daniel Olivas
Email: catherine.wieman@doj.ca.gov
daniel.olivas@doj.ca.gov

If to Developer:

Baldwin & Sons, LLC
610 W. Ash Street, Suite 1500
San Diego, CA 92101
Attn: Nick Lee
Email: nlee@baldwinsons.com

with a copy to:

Gatzke Dillon & Ballance LLP
2762 Gateway Road
Carlsbad, CA 92009
Attn: David P. Hubbard
Email: dhubbard@gdandb.com

6.6 Severability. Each term of this Agreement is severable from any and all other terms of this Agreement. Should any term of this Agreement be for any reason unenforceable, the balance shall still be of full force and effect.

6.7 Entire Agreement. This Agreement contains the entire agreement between the Parties pertaining to the subject matter hereof.

6.8 Factual Investigation. Each Party acknowledges that it has conducted its own factual investigation, is not relying on any other Party, and assumes the risk that there are

material unknown facts or that facts are other than as is presumed. The Parties further acknowledge that they are aware that they may hereafter discover material facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of this Agreement, and further acknowledge that there may be future events, circumstances, or occurrences materially different from those they know or believe likely to occur, but that it is their intention to enter into and be bound by this Agreement.

6.9 Compliance with Laws. This Settlement Agreement is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Developer is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits, and Developer's compliance with this Settlement Agreement shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The People do not, by consent to the entry of this Settlement Agreement, warrant or aver in any manner that Developer's compliance with any aspect of this Settlement Agreement will result in compliance with provisions of State or local laws, regulations, or permits.

6.10 Captions. The captions/titles of the various Sections in this Agreement are for convenience and organization only and are not intended to be any part of the body of this Agreement, nor are they intended to be referred to in construing the provisions of this Agreement.

6.11 Exhibits. All exhibits referenced in this Agreement are attached hereto and made a part of and incorporated herein.

6.12 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

6.13 Nonwaiver. Unless otherwise expressly provided in this Agreement, no waiver by a Party of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such Party. No delay or omission in the exercise of any right or remedy accruing to any Party upon any breach under this Agreement shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by a Party of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other term, covenant, or condition.

6.14 Understanding of Terms. The Parties each hereby affirm and acknowledge that they have read this Agreement, that they know and understand its terms, and have signed it voluntarily and after having been advised by counsel. The Parties have had a full and unhindered opportunity to consult with their attorneys, accountants, financial advisors, and such other consultants as they may have desired prior to executing this Agreement.

6.15 Construction. The Parties acknowledge that each Party and its counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendment or exhibits hereto.

6.16 Days. Except as otherwise noted, all references to days shall be to calendar days.

6.17 No Third-Party Beneficiaries. This Agreement shall not create or bestow any lien or property right in any third party. The Parties agree that no third-party beneficiary to this Agreement exists and that nothing contained herein shall be construed as giving any other person, entity, or organization third-party beneficiary status.

6.18 Joint Obligation. The obligations imposed by this Agreement upon the entities that comprise “Developer” shall be joint and several. The obligations imposed by this Agreement upon the entities that comprise “Environmental Parties” shall be joint and several.

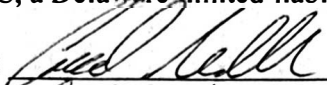
6.19 Authority. Each of the persons signing this Agreement on behalf of a Party hereby represents that he or she has the requisite authority to bind the Party on whose behalf he or she is signing this Agreement, and that all requisite approvals of such Party, its board of directors, shareholders, members, general partners, or others have been obtained. Upon the request of any Party, each Party shall deliver evidence of such authorization to all other Parties. Each Party represents and warrants that the execution and delivery of this Agreement by such Party, and the performance of such Party’s obligations hereunder, have been duly authorized by such Party, and that all consents or approvals necessary to cause this Agreement to be binding upon such Party have been obtained and are in full force and effect.

6.20 Counterparts. This Agreement may be executed in counterparts and may be executed by electronically delivered signatures. All such executed counterparts shall constitute the same agreement, and the signature of any Party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart. If fully executed as provided for herein, any copy of this Agreement may be used to establish the contents and valid execution of this Agreement. This Agreement shall not be binding until signed and delivered by all Parties.

IN WITNESS WHEREOF, the Parties hereto have executed one or more copies of this Agreement as of the Effective Date.

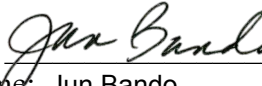
[Signatures appear on the following page.]

BALDWIN & SONS, LLC, a California limited liability company By: <u></u> Name: <u>NICK LEE</u> Title: <u>VP/COO</u> Date: <u>2/24/2025</u>	MOLLER OTAY LAKES INVESTMENTS, LLC, a Delaware limited liability company By: _____ Name: _____ Title: _____ Date: _____
LAKEVIEW 1, LLC, a California limited liability company By: <u></u> Name: <u>NICK LEE</u> Title: <u>VP/COO</u> Date: <u>3/24/2025</u>	LAKEVIEW 2, LLC, a California limited liability company By: <u></u> Name: <u>NICK LEE</u> Title: <u>VP/COO</u> Date: <u>3/24/2025</u>
THE PEOPLE OF THE STATE OF CALIFORNIA, <i>EX REL.</i> ROB BONTA, ATTORNEY GENERAL OF CALIFORNIA By: _____ Name: _____ Title: _____ Date: _____	CENTER FOR BIOLOGICAL DIVERSITY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
ENDANGERED HABITATS LEAGUE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA NATIVE PLANT SOCIETY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
SIERRA CLUB, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA CHAPARRAL INSTITUTE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____

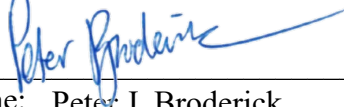
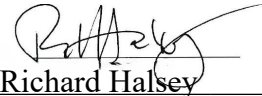
BALDWIN & SONS, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	MOLLER OTAY LAKES INVESTMENTS, LLC, a Delaware limited liability company By:  Name: CONRAD MOLLER Title: Vice President Date: 3/24/25
LAKEVIEW 1, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	LAKEVIEW 2, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____
THE PEOPLE OF THE STATE OF CALIFORNIA, <i>EX REL.</i> ROB BONTA, ATTORNEY GENERAL OF CALIFORNIA By: _____ Name: _____ Title: _____ Date: _____	CENTER FOR BIOLOGICAL DIVERSITY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
ENDANGERED HABITATS LEAGUE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA NATIVE PLANT SOCIETY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
SIERRA CLUB, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA CHAPARRAL INSTITUTE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____

BALDWIN & SONS, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	MOLLER OTAY LAKES INVESTMENTS, LLC, a Delaware limited liability company By: _____ Name: _____ Title: _____ Date: _____
LAKEVIEW 1, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	LAKEVIEW 2, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____
THE PEOPLE OF THE STATE OF CALIFORNIA, <i>EX REL.</i> ROB BONTA, ATTORNEY GENERAL OF CALIFORNIA By: <u>Catherine M. Wieman</u> Name: <u>Catherine M. Wieman</u> Title: <u>Deputy Attorney General</u> Date: <u>March 25, 2025</u>	CENTER FOR BIOLOGICAL DIVERSITY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
ENDANGERED HABITATS LEAGUE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA NATIVE PLANT SOCIETY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
SIERRA CLUB, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA CHAPARRAL INSTITUTE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____

BALDWIN & SONS, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	MOLLER OTAY LAKES INVESTMENTS, LLC, a Delaware limited liability company By: _____ Name: _____ Title: _____ Date: _____
LAKEVIEW 1, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	LAKEVIEW 2, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____
THE PEOPLE OF THE STATE OF CALIFORNIA, <i>EX REL.</i> ROB BONTA, ATTORNEY GENERAL OF CALIFORNIA By: _____ Name: _____ Title: _____ Date: _____	CENTER FOR BIOLOGICAL DIVERSITY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
ENDANGERED HABITATS LEAGUE, a California nonprofit public benefit corporation By: <u><i>[Signature]</i></u> Name: <u><i>Dan Silver</i></u> Title: <u><i>Executive Director</i></u> Date: <u><i>March 20, 2025</i></u>	CALIFORNIA NATIVE PLANT SOCIETY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
SIERRA CLUB, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA CHAPARRAL INSTITUTE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____

BALDWIN & SONS, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	MOLLER OTAY LAKES INVESTMENTS, LLC, a Delaware limited liability company By: _____ Name: _____ Title: _____ Date: _____
LAKEVIEW 1, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	LAKEVIEW 2, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____
THE PEOPLE OF THE STATE OF CALIFORNIA, <i>EX REL.</i> ROB BONTA, ATTORNEY GENERAL OF CALIFORNIA By: _____ Name: _____ Title: _____ Date: _____	CENTER FOR BIOLOGICAL DIVERSITY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
ENDANGERED HABITATS LEAGUE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA NATIVE PLANT SOCIETY, a California nonprofit public benefit corporation By:  _____ Name: Jun Bando Title: Executive Director Date: March 20, 2025
SIERRA CLUB, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA CHAPARRAL INSTITUTE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____

BALDWIN & SONS, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	MOLLER OTAY LAKES INVESTMENTS, LLC, a Delaware limited liability company By: _____ Name: _____ Title: _____ Date: _____
LAKEVIEW 1, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	LAKEVIEW 2, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____
THE PEOPLE OF THE STATE OF CALIFORNIA, <i>EX REL.</i> ROB BONTA, ATTORNEY GENERAL OF CALIFORNIA By: _____ Name: _____ Title: _____ Date: _____	CENTER FOR BIOLOGICAL DIVERSITY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
ENDANGERED HABITATS LEAGUE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA NATIVE PLANT SOCIETY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
SIERRA CLUB, a California nonprofit public benefit corporation By: <u></u> Name: <u>Lisa D Ross</u> Title: <u>Sierra Club San Diego Chapter Chair</u> Date: <u>03/19/2025</u>	CALIFORNIA CHAPARRAL INSTITUTE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____

BALDWIN & SONS, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	MOLLER OTAY LAKES INVESTMENTS, LLC, a Delaware limited liability company By: _____ Name: _____ Title: _____ Date: _____
LAKEVIEW 1, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____	LAKEVIEW 2, LLC, a California limited liability company By: _____ Name: _____ Title: _____ Date: _____
THE PEOPLE OF THE STATE OF CALIFORNIA, <i>EX REL.</i> ROB BONTA, ATTORNEY GENERAL OF CALIFORNIA By: _____ Name: _____ Title: _____ Date: _____	CENTER FOR BIOLOGICAL DIVERSITY, a California nonprofit public benefit corporation By:  Name: <u>Peter J. Broderick</u> Title: <u>Senior Attorney</u> Date: <u>March 20, 2025</u>
ENDANGERED HABITATS LEAGUE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA NATIVE PLANT SOCIETY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____
SIERRA CLUB, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____ Date: _____	CALIFORNIA CHAPARRAL INSTITUTE, a California nonprofit public benefit corporation By:  Name: <u>Richard Halsey</u> Title: <u>Director</u> Date: <u>March 20, 2025</u>

PRESERVE WILD SANTEE, a volunteer community environmental organization By:  Name: <u>Van Collinsworth</u> Title: <u>Director</u> Date: <u>March 20, 2025</u>	
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LEGAL DESCRIPTION

Real property in the unincorporated area of the County of San Diego, State of California, described as follows:

PARCEL A: (APN: 598-130-04-00)

PARCEL 1 OF CERTIFICATE OF COMPLIANCE RECORDED JULY 22, 2009 AS INSTRUMENT NO. 2009-405517 OF OFFICIAL RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE RANCHO JANAL ACCORDING TO THE UNITED STATES PATENT MAP THEREOF RECORDED IN BOOK 1, OF PATENTS, PAGE 89 ON JULY 29, 1872, DESCRIBED AS PARCEL 99 OF GRANT DEED TO OTAY PROJECT, LLC, PER INSTRUMENT RECORDED AUGUST 26, 1997, AS DOCUMENT NO. 1997-0411919 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND AS SHOWN AND DESCRIBED ON RECORD OF SURVEY NO. 14295, FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER SEPTEMBER 02, 1993, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHEASTERLY RIGHT OF WAY OF COUNTY ROAD SURVEY NO. 558 AS SHOWN AND DESCRIBED ON SAID RECORD OF SURVEY NO. 14295, SAID POINT BEING THE NORTHWESTERLY TERMINUS OF THAT CERTAIN COURSE OF SAID NORTHEASTERLY RIGHT OF WAY AS SHOWN AND DESCRIBED ON SAID RECORD OF SURVEY NO. 14295 AS "N 32°29'36" W 2264.04' "; THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY SOUTH 32°29'45" EAST (SOUTH 32°29'36" EAST RECORD PER ROS 14295) 236.74 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHEASTERLY RIGHT OF WAY, NORTH 57°30'00" EAST, 204.19 FEET; THENCE SOUTH 23°29'00" EAST, 66.94 FEET; THENCE SOUTH 63°05'00" EAST, 109.17 FEET; THENCE NORTH 83°55'00" EAST, 78.09 FEET; THENCE NORTH 65°19'00" EAST, 316.60 FEET; THENCE NORTH 72°09'00" EAST, 78.40 FEET; THENCE SOUTH 83°55'00" EAST, 61.56 FEET; THENCE NORTH 43°46'00" EAST, 16.99 FEET; TO THE BEGINNING OF A 478.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°33'27" A DISTANCE OF 113.11 FEET; THENCE SOUTH 10°24'00" EAST, 141.73 FEET; THENCE SOUTH 45°38'00" EAST, 114.54 FEET; THENCE SOUTH 79°27'00" EAST, 113.06 FEET; THENCE NORTH 73°36'12" EAST, 67.43 FEET; THENCE SOUTH 22°05'12" EAST, 81.88 FEET; THENCE SOUTH 33°14'00" WEST, 156.87 FEET; THENCE SOUTH 45°05'45" WEST, 124.56 FEET; TO THE BEGINNING OF A 947.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°27'31" A DISTANCE OF 172.86 FEET; THENCE SOUTH 57°30'24" WEST, 481.66 FEET TO A POINT ON SAID NORTHEASTERLY RIGHT OF WAY OF ROAD SURVEY NO. 558; THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY, NORTH 32°29'45" WEST, 923.93 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL B: (APN'S: 598-140-04-00, 647-030-05-00 AND 647-020-14-00)

PARCEL 4 CERTIFICATE OF COMPLIANCE RECORDED JULY 22, 2009 AS INSTRUMENT NO. 2009-405517 OF OFFICIAL RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF SECTIONS 4, 5 AND 6, TOWNSHIP 18 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, DESCRIBED AS PARCEL 50 OF GRANT DEED TO OTAY PROJECT, LLC, PER INSTRUMENT RECORDED AUGUST 26, 1997, AS DOCUMENT NO. 1997-0411919 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. TOGETHER WITH THAT PORTION THE EAST HALF OF THE NORTHEAST QUARTER, THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, AND THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, DESCRIBED AS PARCEL 78 OF GRANT DEED TO OTAY PROJECT, LLC, PER INSTRUMENT RECORDED

AUGUST 26, 1997, AS DOCUMENT NO. 1997-0411919 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. TOGETHER WITH THAT PORTION OF THE RANCHO JANAL, ACCORDING TO THE UNITED STATES PATENT MAP THEREOF RECORDED IN BOOK 1, OF PATENTS, PAGE 89 ON JULY 29, 1872, DESCRIBED AS PARCEL 99 OF GRANT DEED TO OTAY PROJECT, LLC, PER INSTRUMENT RECORDED AUGUST 26, 1997, AS DOCUMENT NO. 1997-0411919 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. TOGETHER WITH THAT PORTION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, LOTS 3 AND 4 OF SECTION 31, TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN AND LOT 4 OF SECTION 5, TOWNSHIP 18 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, ALL DESCRIBED AS PARCEL 92 OF GRANT DEED TO OTAY PROJECT, LLC, PER INSTRUMENT RECORDED AUGUST 26, 1997, AS DOCUMENT NO. 1997-0411919 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. ALL BEING IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND BEING SHOWN AND DESCRIBED ON RECORD OF SURVEY NO. 14295, FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER SEPTEMBER 02, 1993.

EXCEPTING THEREFROM, THAT PORTION OF THE HEREINABOVE DESCRIBED LAND LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 4 OF SECTION 5, TOWNSHIP 18 SOUTH, RANGE 1 EAST, AS SHOWN AND DESCRIBED ON SAID RECORD OF SURVEY NO. 14295; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID LOT 4 NORTH 89°39'25" WEST (NORTH 89°38'54" WEST PER ROS 14295), 440.35 FEET; THENCE LEAVING SAID NORTHERLY LINE OF LOT 4, NORTH 27°25'00" WEST, 242.21 FEET; THENCE NORTH 80°06'00" WEST, 797.02 FEET; THENCE SOUTH 33°49'00" WEST, 551.14 FEET TO THE BEGINNING OF A 484.50 FOOT RADIUS CURVE CONCAVE NORTHERLY; A RADIAL LINE TO SAID POINT BEARS SOUTH 15°38'41" EAST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 24°37'02" A DISTANCE OF 208.17 FEET; THENCE NORTH 81°01'39" WEST, 295.89 FEET TO THE BEGINNING OF A 964.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 52°40'40" A DISTANCE OF 886.30 FEET; THENCE NORTH 28°20'59" WEST, 335.73 FEET TO THE BEGINNING OF A 1286.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21°59'29" A DISTANCE OF 493.59 FEET; THENCE SOUTH 42°12'38" WEST, 92.74 FEET; THENCE SOUTH 38°06'58" WEST, 221.48 FEET TO THE BEGINNING OF A 478.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14°42'57" A DISTANCE OF 122.77 FEET; THENCE SOUTH 37°10'05" EAST, 79.01 FEET; THENCE SOUTH 16°32'00" EAST, 165.91 FEET TO THE BEGINNING OF A 48.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; A RADIAL LINE TO SAID POINT BEARS NORTH 21°29'38" WEST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 152°10'55" A DISTANCE OF 127.49 FEET TO THE BEGINNING OF A 27.00 FOOT RADIUS REVERSE CURVE CONCAVE EASTERLY; A RADIAL LINE TO SAID POINT BEARS NORTH 49°18'44" WEST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 62°10'55" A DISTANCE OF 29.30 FEET; THENCE SOUTH 21°29'38" EAST, 213.62 FEET TO THE BEGINNING OF A 172.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 47°53'05" A DISTANCE OF 143.75 FEET; THENCE SOUTH 69°22'44" EAST, 338.89 FEET TO THE BEGINNING OF A 932.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; A RADIAL LINE TO SAID POINT BEARS NORTH 48°53'22" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 16°00'21" A DISTANCE OF 260.36 FEET; THENCE SOUTH 25°06'17" WEST, 117.70 FEET TO THE BEGINNING OF A 718.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 50°08'28" A DISTANCE OF 628.34 FEET; THENCE SOUTH 75°14'45" WEST, 139.61 FEET TO THE BEGINNING OF A 832.00 FOOT RADIUS CURVE CONCAVE SOUTHERLY; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°11'52" A DISTANCE OF 60.95 FEET; THENCE NORTH 27°53'00" WEST, 398.27 FEET; THENCE NORTH 70°51'00" WEST, 261.57 FEET; THENCE SOUTH 57°22'00" WEST, 536.98 FEET; THENCE SOUTH

86°07'00" WEST, 244.03 FEET; THENCE SOUTH 29°23'00" WEST, 63.95 FEET; THENCE SOUTH 11°36'00" EAST, 90.60 FEET; THENCE SOUTH 17°21'00" WEST, 31.54 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY OF COUNTY ROAD SURVEY NO. 558 AS SHOWN AND DESCRIBED ON SAID RECORD OF SURVEY NO. 14295, SAID POINT BEING THE POINT OF TERMINUS.

PARCEL C: (APN: PORTION 598-140-05-00)

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32 AND SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 17 SOUTH , RANGE 1 EAST, SAN BERNARDINO MERIDIAN , IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL D: (APN: PORTION 598-140-05-00)

THE WEST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 17 SOUTH , RANGE 1 EAST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL E: (APN: PORTION 598-140-05-00)

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL F: (APN 598-130-05-00)

PARCEL 2 OF CERTIFICATE OF COMPLIANCE, RECORDED JULY 22, 2009 AS INSTRUMENT NO. 2009-405517 OF OFFICIAL RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE RANCHO JANAL ACCORDING TO THE UNITED STATES PATENT MAP THEREOF RECORDED IN BOOK 1, OF PATENTS, PAGE 89 ON JULY 29, 1872, DESCRIBED AS PARCEL 99 OF GRANT DEED TO OTAY PROJECT, LLC, PER INSTRUMENT RECORDED AUGUST 26, 1997 AS INSTRUMENT NO. 1997-411919 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND AS SHOWN AND DESCRIBED ON RECORD OF SURVEY NO. 14295, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY RECORDER SEPTEMBER 2, 1993.

EXCEPTING THEREFROM, THAT PORTION OF THE HEREINABOVE DESCRIBED LAND LYING EASTERLY AND SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 30, TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN AS SHOWN AND DESCRIBED ON SAID RECORD OF SURVEY NO. 14295, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF SAID RANCHO JANAL; THENCE LEAVING SAID NORTHERLY RANCHO BOUNDARY SOUTH 65°51'00" EAST 900.14 FEET; THENCE SOUTH 13°19'00" EAST, 444.12 FEET; THENCE SOUTH 40°37'00" WEST, 216 FEET; THENCE SOUTH 06°23'00" EAST, 899.00 FEET, THENCE SOUTH 43°26'00" WEST, 113.00 FEET; THENCE SOUTH 04°07'00" EAST, 287.00 FEET; THENCE SOUTH 74°21'00" EAST 100.19 FEET; THENCE SOUTH 46°53'00" EAST 879.63 FEET; THENCE SOUTH 43°06'40" WEST, 559.72 FEET; THENCE SOUTH 36°20'42" WEST, 28.26 FEET; TO THE BEGINNING OF A 478.00 FOOT RADIUS CURVE CONCAVE EASTERLY THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 82°35'02" A DISTANCE OF 688.97 FEET TO A POINT ON THE NORTHERLY LINE OF PARCEL 1 OF COUNTY OF SAN DIEGO BOUNDARY BOUNDARY ADJUSTMENT BC09-0027; THENCE ALONG SAID NORTHERLY LINE, SOUTH 43°46'00" WEST, 16.99 FEET; THENCE NORTH 83°55'00" WEST, 61.56 FEET; THENCE SOUTH 72°09'00" WEST, 78.40 FEET; THENCE SOUTH 65°19'00" WEST, 316.60 FEET; THENCE SOUTH 83°55'00" WEST, 78.09 FEET; THENCE NORTH 63°05'00" WEST, 109.17 FEET, THENCE NORTH 23°29'00" WEST, 66.94 FEET; THENCE SOUTH

57°30'00" WEST, 204.19 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY OF COUNTY ROAD SURVEY NO. 558 AS SHOWN AND DESCRIBED ON SAID RECORD OF SURVEY NO. 14295, AND THE POINT OF TERMINUS.

PARCEL G: (APN 598-130-06-00)

PARCEL 3 OF CERTIFICATE OF COMPLIANCE, RECORDED JULY 22, 2009 AS INSTRUMENT 2009-405517 OF OFFICIAL RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF SECTIONS 4, 5 AND 6, TOWNSHIP 18 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, DESCRIBED AS PARCEL 50 OF GRANT DEED TO OTAY PROJECT, LLC, PER INSTRUMENT RECORDED AUGUST 26, 1997, AS DOCUMENT NO. 1997-0411919 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. TOGETHER WITH THAT PORTION OF THE RANCHO JANAL, ACCORDING TO THE UNITED STATES PATENT MAP THEREOF RECORDED IN BOOK 1, OF PATENTS, PAGE 89 ON JULY 29, 1872, DESCRIBED AS PARCEL 99 OF GRANT DEED TO OTAY PROJECT, LLC, PER INSTRUMENT RECORDED AUGUST 26, 1997, AS DOCUMENT NO. 1997-0411919 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. TOGETHER WITH THAT PORTION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, LOTS 3 AND 4 OF SECTION 31, TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN AND LOT 4 OF SECTION 5, TOWNSHIP 18 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, ALL DESCRIBED AS PARCEL 92 OF GRANT DEED TO OTAY PROJECT, LLC, PER INSTRUMENT RECORDED AUGUST 26, 1997 AS DOCUMENT NO. 1997-0411919 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. ALL BEING IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND BEING SHOWN AND DESCRIBED ON RECORD OF SURVEY NO. 14295, FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER SEPTEMBER 02, 1993.

EXCEPTING THEREFROM THAT PORTION OF THE HEREINABOVE DESCRIBED LAND LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 4 OF SECTION 5, TOWNSHIP 18 SOUTH, RANGE 1 EAST, AS SHOWN AND DESCRIBED ON SAID RECORD OF SURVEY NO. 14295; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID LOT 4 NORTH 89°39'25" WEST (NORTH 89°38'54" WEST PER ROS 14295), 440.35 FEET; THENCE LEAVING SAID NORTHERLY LINE OF LOT 4, NORTH 27°25'00" WEST, 242.21 FEET; THENCE NORTH 80°06'00" WEST, 797.02 FEET THENCE SOUTH 33°49'00" WEST, 551.14 FEET TO THE BEGINNING OF A 484.50 FOOT RADIUS CURVE CONCAVE NORTHERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 15°38'41" EAST; THENCE WESTERLY ALONG ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 24°37'02" A DISTANCE OF 208.17 FEET; THENCE NORTH 81°01'39" WEST, 295.89 FEET TO THE BEGINNING OF A 964.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 52°40'40" A DISTANCE OF 886.30 FEET; THENCE NORTH 28°20'59" WEST, 335.73 FEET TO THE BEGINNING OF A 1286.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21°59'29" A DISTANCE OF 493.59 FEET; THENCE SOUTH 42°12'38" WEST, 92.74 FEET; THENCE SOUTH 38°06'58" WEST, 221.48 FEET TO THE BEGINNING OF A 478.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14°42'57" A DISTANCE OF 122.77 FEET; THENCE SOUTH 37°10'05" EAST, 79.01 FEET; THENCE SOUTH 16°32'00" EAST, 165.91 FEET TO THE BEGINNING OF A 48.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; A RADIAL LINE TO SAID POINT BEARS NORTH 21°29'38" WEST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 152°10'55" A DISTANCE OF 127.49 FEET TO THE BEGINNING OF A 27.00 FOOT RADIUS REVERSE CURVE CONCAVE EASTERLY; A RADIAL LINE TO SAID POINT BEARS NORTH 49°18'44" WEST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 62°10'55" A DISTANCE OF 29.30 FEET; THENCE SOUTH 21°29'38" EAST, 213.62 FEET TO THE BEGINNING OF A 172.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE

THROUGH A CENTRAL ANGLE OF 47°53'05" A DISTANCE OF 143.75 FEET; THENCE SOUTH 69°22'44" EAST, 338.89 FEET OF THE BEGINNING OF A 932.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; A RADIAL LINE TO SAID POINT BEARS NORTH 48°53'22" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 16°00'21" A DISTANCE OF 260.36 FEET; THENCE SOUTH 25°06'17" WEST, 117.70 FEET TO THE BEGINNING OF A 718.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 50°08'28" A DISTANCE OF 628.34 FEET; THENCE SOUTH 75°14'45" WEST, 139.61 FEET TO THE BEGINNING OF A 832.00 FOOT RADIUS CURVE CONCAVE SOUTHERLY; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°11'52" A DISTANCE OF 60.95 FEET; THENCE NORTH 27°53'00" WEST, 398.27 FEET; THENCE NORTH 70°51'00" WEST, 261.57 FEET; THENCE SOUTH 57°22'00" WEST, 536.98 FEET; THENCE SOUTH 86°07'00" WEST, 244.03 FEET, THENCE SOUTH 29°23'00" WEST, 63.95; FEET, THENCE SOUTH 11°36'00" EAST, 90.60 FEET; THENCE SOUTH 17°21'00" WEST, 31.54 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY OF COUNTY ROAD SURVEY NO. 558 AS SHOWN AND DESCRIBED ON SAID RECORD OF SURVEY NO. 14295, SAID POINT BEING THE POINT OF TERMINUS.

THE HEREINABOVE DESCRIBED PARCELS "F" AND "G" BEING THE SAME PROPERTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 30, TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN AS SHOWN AND DESCRIBED ON RECORD OF SURVEY NO. 14295, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF RANCHO JANAL; THENCE ALONG SAID NORTHERLY BOUNDARY SOUTH 88°37'34" EAST, 4808.90 FEET TO THE EASTERLY BOUNDARY OF SAID RANCHO JANAL; THENCE ALONG SAID EASTERLY BOUNDARY SOUTH 00°20'28" WEST, 2651.27 FEET, THENCE LEAVING SAID EASTERLY BOUNDARY ALONG THE NORTHERLY LINE OF LOT 3 OF SECTION 31, TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN AND THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN SOUTH 89°51'03" EAST, 1791.46 FEET TO THE EASTERLY LINE OF SAID WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32, THENCE LEAVING SAID NORTHERLY LINE ALONG SAID EASTERLY LINE SOUTH 00°37'39" EAST, 2649.45 FEET TO THE SOUTHERLY LINE OF SAID SOUTHWEST QUARTER OF SECTION 32 AND THE SOUTHERLY LINE OF PARCEL 3 OF SAID CERTIFICATE OF COMPLIANCE RECORDED JULY 22, 2009 AS INSTRUMENT NO. 2009-405517; THENCE ALONG SAID SOUTHERLY LINE OF SECTION 32 AND SAID SOUTHERLY LINE OF PARCEL 3 NORTH 89°39'25" WEST, 440.35 FEET; THENCE LEAVING SAID SOUTHERLY LINE OF SECTION 32 NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF PARCEL 3 NORTH 21°25'00" WEST, 242.21 FEET; THENCE NORTH 80°06'00" WEST, 797.02 FEET; THENCE SOUTH 33°49'00" WEST, 551.14 FEET TO THE BEGINNING OF A NONTANGENT 484.50 FOOT RADIUS CURVE CONCAVE NORTHERLY; A RADIAL LINE TO SAID POINT BEARS SOUTH 15°38'41" EAST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 24°37'02" A DISTANCE OF 208.17 FEET; THENCE NORTH 81°01'39" WEST, 295.89 FEET TO THE BEGINNING OF A TANGENT 964.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH CENTRAL ANGLE OF 52°40'40" A DISTANCE OF 886.30 FEET; THENCE 28°20'59" WEST, 335.73 FEET TO THE BEGINNING OF A TANGENT 1286.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21°59'29" A DISTANCE OF 493.59 FEET; THENCE SOUTH 42°12'38" WEST, 92.74 FEET; THENCE SOUTH 38°06'58" WEST, 221.48 FEET TO THE BEGINNING OF A 478.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14°42'57" A DISTANCE OF 122.77 FEET; THENCE SOUTH 31°10'05" EAST, 79.01 FEET; THENCE SOUTH 16°32'00" EAST, 165.91 FEET TO THE BEGINNING OF A NONTANGENT 48.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, A RADIAL LINE TO SAID POINT BEARS NORTH 21°29'38" WEST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 152°10'55" A DISTANCE OF 127.49 FEET TO THE BEGINNING OF A TANGENT 27.00 FOOT RADIUS REVERSE CURVE CONCAVE EASTERLY; A RADIAL LINE TO SAID POINT BEARS NORTH 49°18'44" WEST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 62°10'55" A DISTANCE

OF 29.30 FEET; THENCE SOUTH 21°29'38" EAST, 213.62 FEET TO THE BEGINNING OF A TANGENT 172.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF CURVE THROUGH A CENTRAL ANGLE OF 41°53'05" A DISTANCE OF 143.75 FEET; THENCE SOUTH 69°22'44" EAST, 338.89 FEET TO THE BEGINNING OF A NONTANGENT 932.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; A RADIAL LINE TO SAID POINT BEARS NORTH 48°53'22" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 16°00'21" A DISTANCE OF 260.36 FEET; THENCE SOUTH 25°06'17" WEST, 117.70 FEET TO THE BEGINNING OF A TANGENT 718.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 50°08'28" A DISTANCE OF 628.34 FEET; THENCE SOUTH 75°14'45" WEST, 139.61 FEET TO THE BEGINNING OF A TANGENT 832.00 FOOT RADIUS CURVE CONCAVE SOUTHERLY; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°11'52" A DISTANCE OF 60.95 FEET; THENCE NORTH 27°53'00" WEST, 398.27 FEET; THENCE NORTH 70°51'00" WEST, 261.57 FEET; THENCE SOUTH 57°22'00" WEST, 536.98 FEET; THENCE SOUTH 86°07'00" WEST, 244.03 FEET; THENCE SOUTH 29°23'00" WEST, 63.95 FEET; THENCE SOUTH 11°36'00" EAST, 90.60 FEET; THENCE SOUTH 17°21'00" WEST, 31.54 FEET TO EASTERLY SIDELINE OF ROAD SURVEY NO. 558 AS SHOWN AND DESCRIBED ON RECORD OF SURVEY 14295 AND THE BEGINNING OF A NONTANGENT 1030.00 FOOT RADIUS CURVE CONCAVE WESTERLY; A RADIAL LINE TO SAID POINT BEARS NORTH 81°49'52" EAST; THENCE NORTHERLY ALONG SAID EASTERLY SIDELINE OF ROAD SURVEY NO. 558 AND THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 24°19'39" A DISTANCE OF 437.33 FEET; THENCE NORTH 32°29'45" WEST, 1103.38 FEET TO THE WESTERLY LINE OF SAID PARCEL 3; THENCE LEAVING SAID EASTERLY SIDELINE OF ROAD SURVEY NO. 558 ALONG SAID WESTERLY LINE OF PARCEL 3 NORTH 51°30'24" EAST, 481.66 FEET TO THE BEGINNING OF A TANGENT 947.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°27'31" A DISTANCE OF 172.86 FEET; THENCE NORTH 45°05'45" EAST, 124.56 FEET; THENCE NORTH 33°14'00" EAST, 156.87 FEET; THENCE NORTH 22°05'12" WEST, 81.88 FEET; THENCE SOUTH 73°36'12" WEST, 67.43 FEET; THENCE NORTH 79°27'00" WEST, 113.06 FEET; THENCE NORTH 45°38'00" WEST, 114.54 FEET; THENCE NORTH 10°24'00" WEST, 141.73 FEET TO THE BEGINNING OF A NONTANGENT 478.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; A RADIAL LINE TO SAID POINT BEARS SOUTH 30°12'14" WEST, THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°33'27" A DISTANCE OF 113.11 FEET; THENCE SOUTH 43°46'00" WEST, 16.99 FEET; THENCE NORTH 83°55'00" WEST, 61.56 FEET; THENCE SOUTH 72°09'00" WEST, 78.40 FEET; THENCE SOUTH 65°19'00" WEST, 316.60 FEET; THENCE SOUTH 83°55'00" WEST, 78.09 FEET; THENCE NORTH 63°05'00" WEST, 109.17 FEET; THENCE NORTH 23°29'00" WEST, 66.94 FEET; THENCE SOUTH 51°30'00" WEST, 204.19 FEET TO SAID EASTERLY SIDELINE OF ROAD SURVEY 558; THENCE ALONG SAID EASTERLY SIDELINE NORTH 32°29'45" WEST, 236.74 FEET TO THE BEGINNING OF A TANGENT 970.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 12°23'01" A DISTANCE OF 209.65 FEET; THENCE NORTH 20°06'45" WEST, 394.35 FEET; THENCE LEAVING SAID EASTERLY SIDELINE SOUTH 68°38'14" EAST, 160.08 FEET; THENCE SOUTH 81°49'39" EAST, 75.95 FEET TO THE BEGINNING OF A TANGENT 100.00 FOOT RADIUS CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 160°58'59" A DISTANCE OF 280.97 FEET; THENCE NORTH 62°48'37" WEST, 104.75 FEET; THENCE NORTH 40°42'42" WEST, 153.55 FEET; THENCE NORTH 81°40'04" WEST, 65.30 FEET; THENCE NORTH 28°09'06" EAST, 35.64 FEET TO THE BEGINNING OF A TANGENT 100.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 143°45'19" A DISTANCE OF 250.90 FEET; THENCE SOUTH 64°23'47" WEST, 65.34 FEET; THENCE NORTH 52°47'30" WEST, 130.88 FEET; THENCE NORTH 13°51'03" WEST, 9.75 FEET; THENCE NORTH 34°25'54" EAST, 96.65 FEET; THENCE NORTH 21°21'31" WEST, 190.75 FEET; THENCE SOUTH 68°21'46" WEST, 100.57 FEET; THENCE NORTH 30°03'10" WEST, 887.76 FEET; THENCE NORTH 78°56'53" WEST, 482.13 FEET; THENCE NORTH 58°40'50" WEST, 136.12 FEET; THENCE NORTH 42°56'36" WEST, 114.28 FEET; THENCE NORTH 05°09'32" WEST, 151.59 FEET; THENCE NORTH 15°48'55" EAST, 154.90 FEET; THENCE NORTH 44°29'37" EAST, 149.81 FEET; THENCE NORTH 16°54'15" EAST, 130.13 FEET; THENCE NORTH 30°54'35" EAST, 112.74 FEET; THENCE NORTH 37°27'39" EAST, 346.75 FEET; THENCE NORTH

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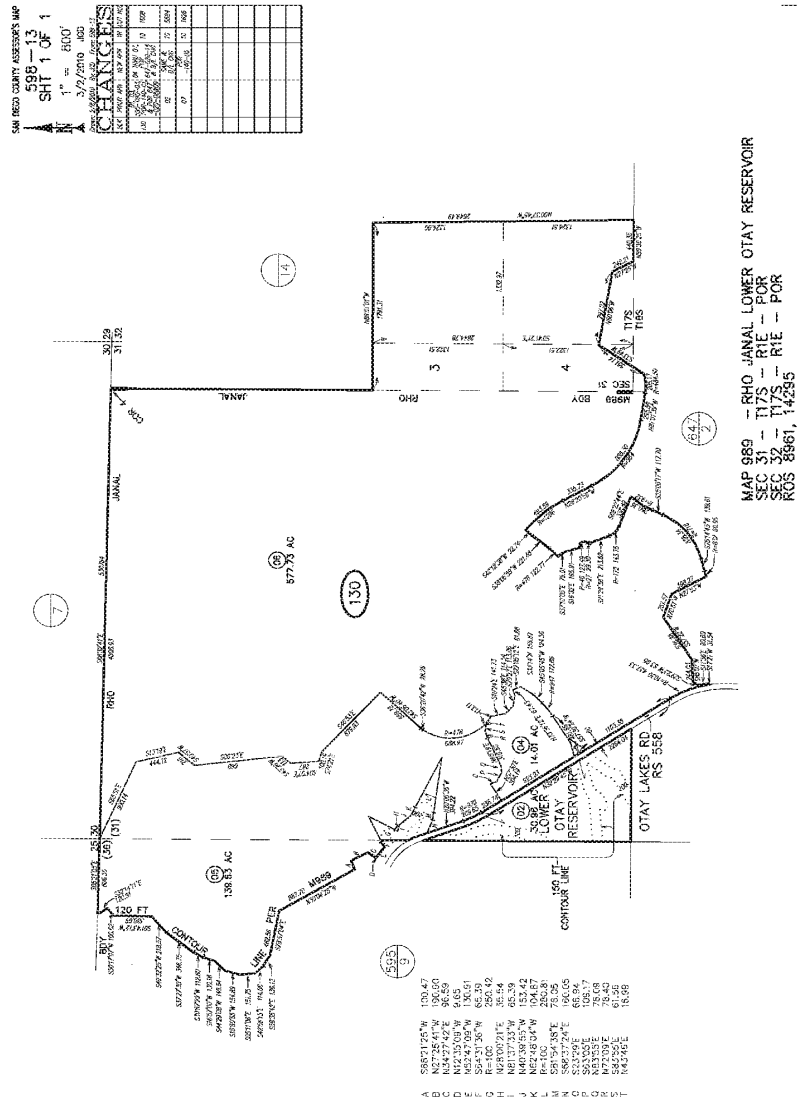
49°35'10" EAST, 218.52 FEET; THENCE NORTH 01°41'59" EAST, 388.78 FEET; THENCE NORTH 50°17'19" EAST, 100.69 FEET; THENCE NORTH 32°17'23" WEST, 121.16 FEET TO THE NORTHERLY BOUNDARY OF SAID RANCHO JANAL; THENCE ALONG SAID NORTHERLY BOUNDARY SOUTH 88°19'56" EAST, 806.77 FEET TO THE POINT OF BEGINNING.

PARCEL H: (APN 598-140-06-00)

LOTS 1 AND 2 IN SECTION 31 AND THE NORTH HALF OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 32, ALL IN TOWNSHIP 17 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM ALL THE COAL AND OTHER MINERALS, TOGETHER WITH THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SAME, PURSUANT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF CONGRESS OF DECEMBER 29, 1916 (39 STAT. 862), AS EXCEPTED AND RESERVED TO THE UNITED STATES OF AMERICA IN THE PATENT FOR SAID LAND, ISSUED AUGUST 11, 1933 AND RECORDED APRIL 8, 1935 IN BOOK 384, PAGE 430 OF OFFICIAL RECORDS.

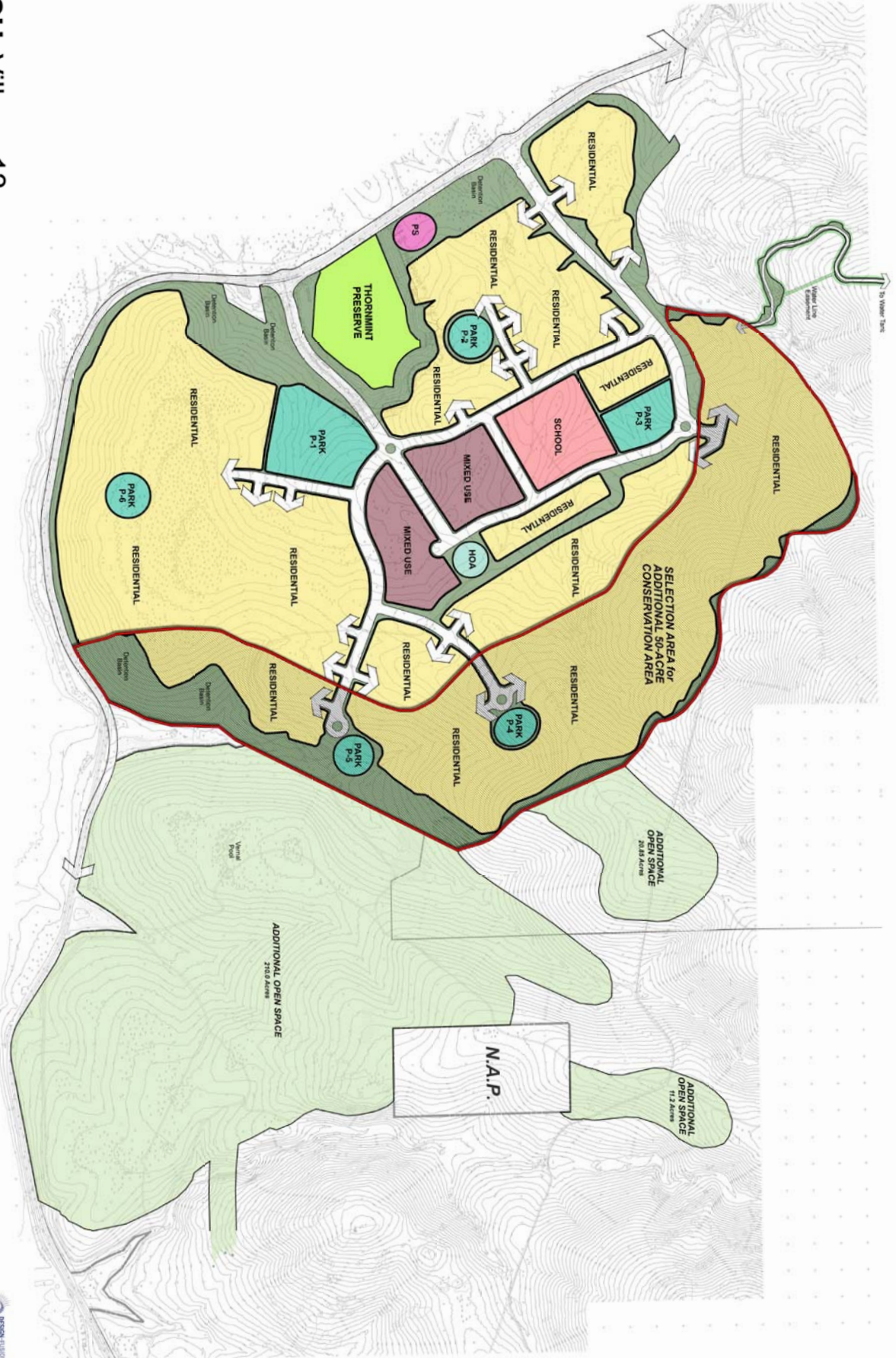
(continued)



Attē

EXHIBIT 2
Revised Development Footprint Area Map

VILLAGE 13
EXHIBIT 2
Alternative Plan I
2,750 DU



OTAY RANCH Village 13
County of San Diego, CA

EXHIBIT 3

Greenhouse Gas Mitigation Fund Protocol

1. Introduction and Summary

Moller Otay Lakes Investments, LLC, Lakeview 1, LLC and Lakeview 2, LLC (collectively, “Lakeview”), and Baldwin & Sons, LLC (together with Lakeview, “Developer”) has entered into the Settlement Agreement (defined below) with the People of the State of California, by and through Attorney General Rob Bonta (“Attorney General’s Office”), Sierra Club, California Native Plant Society, Endangered Habitats League, and Center for Biological Diversity (together, “Environmental Parties”) to resolve the claims of the Environmental Parties and the Attorney General’s Office, on behalf of the People, against the County of San Diego (“County”) in connection with the County’s approval of the Otay Ranch Village 13 development project.

Pursuant to Sections 1.1 and 3.3(b) of the Settlement Agreement, Developer will seek approval from the County or the City of Chula Vista to build a revised project, and will pay at least \$15 million to the GHG Mitigation Fund (defined below) as mitigation for some of the revised project’s greenhouse gas (“GHG”) emissions. In addition, if Developer seeks and receives authorization from the County to build more than 1,938 residential units (up to a maximum of 2,750), Developer will pay up to an additional \$6,284,880, for a total of up to \$21,284,880 available to fund selected Projects. (Settlement Agreement, sections 2.1(c) and 3.3(b)(3)(G).)

The following Greenhouse Gas Mitigation Fund Protocol (“Protocol”) sets forth the requirements for the creation and operation of the GHG Mitigation Fund. The intent of this Introduction and Summary is solely to summarize the terms of this Protocol. In the event of a conflict between the language set forth in this Introduction and Summary and the terms and conditions set forth in the numbered sections of this Protocol, the latter shall control.

The GHG Mitigation Fund will be established and administered consistent with this Protocol by a third-party, not-for-profit entity that will provide monetary funding for selected GHG emissions reduction projects (“Projects”) in the County of San Diego. (See Settlement Agreement, section 3.3(b).) This Protocol establishes the requirements for the GHG Mitigation Fund, which shall operate as set forth below and which shall serve as a repository for the funds described above. This Protocol provides for the selection of a third-party administrator responsible for administering the GHG Mitigation Fund (“Fund Administrator”) and for the entry into an agreement between the Fund Administrator and the Attorney General’s Office regarding the administration of the GHG Mitigation Fund (“Administrator Agreement”). This Protocol also identifies the criteria for selection by the Fund Administrator, following review and approval by the Attorney General’s Office in consultation with representatives of one or more Environmental Parties (“Fund Advisors”), of Projects that will be implemented using these funds. Other documents, including but not limited to grant applications, Grant Agreements (as defined below), and requests for approval, may be developed by the Fund Administrator, with an opportunity for review and approval by the Attorney General’s Office, following execution of the Administrator Agreement. The Fund Administrator shall be subject to recordkeeping and reporting

requirements to ensure that expenditure of the GHG Mitigation Fund complies with the Administrator Agreement. Any ambiguities in the Administrator Agreement shall be interpreted in a manner that best effectuates the intent of the Settlement Agreement and this Protocol.

2. Definitions

The following definitions, as well as any definitions set forth above and below, apply to this Protocol in its entirety. Capitalized terms used but not defined in this Protocol shall have the meaning ascribed to them in the Settlement Agreement. Except as expressly stated otherwise in this Protocol, in the event of a discrepancy between the definitions in the Settlement Agreement and in this Protocol, the definitions set forth in this Protocol shall prevail for purposes of interpreting the Protocol.

2.1 **“Approved Project”** means a GHG emissions reduction project that the Fund Administrator has recommended and the Attorney General’s Office has approved for funding pursuant to the process identified in Sections 3.3(f)(3) and 3.3(h)(2), below.

2.2 **“Environmental Justice Community”** shall mean an area identified as a “disadvantaged community” by the California Environmental Protection Agency in its most recent designation pursuant to Health and Safety Code section 39711(a)(1).

2.3 **“Fund Administrator”** shall mean the third-party entity selected by the Attorney General’s Office following consultation with Environmental Parties to administer the GHG Mitigation Fund pursuant to Section 3.2 below and any Replacement Fund Administrator selected pursuant to Section 3.2(c) below.

2.4 **“Fund Advisors”** shall mean representatives of one or more Environmental Parties with whom the Attorney General’s Office shall consult as set forth in this Protocol.

2.5 **“Fund Recipient”** shall mean a recipient of funds allocated under a Grant Agreement.

2.6 **“GHG Mitigation Fund Escrow Account”** shall mean the escrow account established by Developer to receive GHG Mitigation Payments from the Developer and disburse them to the Fund Administrator. Developer shall establish the escrow account pursuant to the Settlement Agreement.

2.7 **“Grant Agreement”** shall mean a written agreement between a Fund Recipient and the Fund Administrator whereby the Fund Recipient agrees to comply with the terms established by this Protocol and any Fund Guidelines for a Project receiving funds from the GHG Mitigation Fund, specifically including the Fund Recipient Responsibilities set forth herein. The Attorney General’s Office shall prepare and provide to Fund Administrator a model Grant Agreement.

2.8 **“Otay Ranch Village 13 Greenhouse Gas Mitigation Fund”** (or **“GHG Mitigation Fund”**) shall mean the fund or account that shall be established by the Fund Administrator and funded pursuant to the Settlement Agreement and Sections 3.1(a) and 3.3(a) of this Protocol, below. The purpose of the GHG Mitigation Fund is to fund certain Approved

Projects as specified in the Settlement Agreement and this Protocol to mitigate GHG impacts from the Otay Ranch Village 13 development project. The GHG Mitigation Fund shall be administered by the Fund Administrator, as specified in Section 3.1(f), below.

2.9 “**Settlement Agreement**” shall mean the written settlement agreement entered into by and among the Attorney General’s Office, Environmental Parties, and Developer resolving the lawsuit entitled *Center for Biological Diversity, et al., v. County of San Diego, et al.*, San Diego County Superior Court Case No. 37-2020-00046553.

3. GHG Mitigation Fund

Pursuant to the Settlement Agreement the Attorney General’s Office shall, following consultation with Environmental Parties, select a Fund Administrator which, in turn, shall establish the GHG Mitigation Fund. The funds paid by Developer for the GHG Mitigation Fund pursuant to Section 3.3(b) of the Settlement Agreement shall be deposited into the GHG Mitigation Fund.

In the event (1) the Fund Administrator has not been selected and/or the GHG Mitigation Fund has not been established by the Fund Administrator by the date the first payment is due under Section 3.3(b)(4)(A) of the Settlement Agreement, or (2) the Administrator Agreement is terminated and a Replacement Fund Administrator must be selected, Developer shall create the GHG Mitigation Fund Escrow Account to hold payments required for the Mitigation Fund pursuant to Sections 3.3(b)(1) and (5). Developer shall be responsible for paying all escrow or other fees required to establish and maintain the GHG Mitigation Fund Escrow Account. In this event, after the Fund Administrator is selected by the Attorney General’s Office and Environmental Parties and the Fund Administrator creates the GHG Mitigation Fund, some or all of the funds in the GHG Mitigation Fund Escrow Account, subject to the approval of the Attorney General’s Office, will be directed to the Fund Administrator for deposit into the GHG Mitigation Fund. The Fund Administrator will allocate funds in the GHG Mitigation Fund to the Approved Projects identified and selected pursuant to the processes described in Section 3.3(f)-(i), below. The funds in the GHG Mitigation Fund shall be used to provide grants to implement GHG emissions reduction projects in San Diego County, subject to approval by the Attorney General’s Office following a reasonable opportunity for consultation with the Fund Advisors and in accordance with Section 3.3, below.

3.1 Developer’s Payments for GHG Mitigation Projects

(a) Developers’ Payments/Deposits

(i) The Settlement Agreement establishes the schedule pursuant to which Developer shall make payments to the Fund Administrator and/or the GHG Mitigation Fund Escrow Account. For convenience, that schedule is restated below. Should any discrepancy

be identified between the schedule set forth below and that in the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

(ii) Developer shall make the following payments to the Fund Administrator or the GHG Mitigation Fund Escrow Account, each of which shall be deposited into or allocated solely for the GHG Mitigation Fund:

(1) Developer shall pay one and a half million dollars (\$1,500,000.00) to the Fund Administrator or the GHG Mitigation Fund Escrow Account following Developer's receipt of the later of (i) its first tentative map approval from the County of San Diego and (ii) any permits from the Resource Agencies necessary for the commencement of development within the tentative map area; but in no case later than the issuance of the first grading permit.

(2) Developer shall pay an additional one and one-half million dollars (\$1,500,000.00) to the Fund Administrator or the GHG Mitigation Fund Escrow Account prior to issuance of the first grading permit.

(3) Developer shall pay an additional three million dollars (\$3,000,000.00) to the Fund Administrator or the GHG Mitigation Fund Escrow Account prior to issuance of the first building permit.

(4) Developer shall pay an additional three million dollars (\$3,000,000.00) to the Fund Administrator or the GHG Mitigation Fund Escrow Account prior to issuance of the five hundredth building (500th) building permit.

(5) Developer shall pay an additional three million dollars (\$3,000,000) to the Fund Administrator or the GHG Mitigation Fund Escrow Account prior to issuance of the one-thousandth (1,000th) building permit, less the amount Developer has incurred on expenditures eligible for the Battery Credit, as documented in accordance with the Settlement Agreement.

(6) Developer shall pay an additional three million dollars (\$3,000,000.00) to the Fund Administrator or the GHG Mitigation Fund Escrow Account prior to issuance of the one thousand five hundredth (1,500th) building permit, less any additional amount not already credited that Developer has incurred on expenditures eligible for the Battery Credit, as documented in accordance with the Settlement Agreement.

(7) If Developer elects to pursue the Increased Unit Project, Developer shall pay to the Fund Administrator or the GHG Mitigation Fund Escrow Account an amount equal to \$7,740 times the number of units in the Increased Unit Project in excess of 1,938 ("Additional Units"), as follows:

(a) If the total number of approved units is greater than 1,938 units and less than or equal to 2,188 units, Developer shall make a payment in the amount required for the Additional Units prior to issuance of the building permit for the 1,939th unit.

(b) If the total number of approved units is greater than 2,188 units and less than or equal to 2,438 units, Developer shall make a payment in the amount required for 250 units prior to issuance of the building permit for the 1,939th unit, and another payment in an amount equal to the remaining Additional Units prior to issuance of the building permit for the 2,189th unit.

(c) If the total number of approved units is greater than 2,438 units and less than or equal to 2,688 units, Developer shall make two payments each in the amount required for 250 units, the first prior to issuance of the building permit for the 1,939th unit and the second prior to issuance of the building permit for the 2,189th unit, and shall make another payment in an amount equal to the remaining Additional Units prior to issuance of the building permit for the 2,439th unit.

(d) If the total number of approved units is greater than 2,688 units, Developer shall make three payments each in the amount required for 250 units, the first prior to issuance of the building permit for the 1,939th unit, the second prior to issuance of the building permit for the 2,189th unit, and the third prior to issuance of the building permit for the 2,439th unit, and shall make another payment in an amount equal to the remaining Additional Units prior to issuance of the building permit for the 2,689th unit.

(b) Developer's Creation of GHG Mitigation Fund Escrow Account

In the event (1) the Fund Administrator has not been selected and/or the GHG Mitigation Fund has not been established by the Fund Administrator by the date the first payment identified in Section (a) above is due, or (2) the Administrator Agreement is terminated and a Replacement Fund Administrator must be selected, Developer shall create the GHG Mitigation Fund Escrow Account to hold payments required for the GHG Mitigation Fund pursuant to subsection (a). Developer shall be responsible for paying all escrow or other fees required to establish and maintain the GHG Mitigation Fund Escrow Account. All or part of any funds in the GHG Mitigation Fund Escrow Account shall be transferred to the GHG Mitigation Fund at the request of the Fund Administrator following approval by the Attorney General's Office.

3.2 Selection of Fund Administrator

(a) The Attorney General's Office shall, after consultation with Environmental Parties, select an entity to serve as Fund Administrator.

(b) Once a Fund Administrator is selected by the Attorney General's Office as set forth in subsection (a), the Attorney General's Office shall negotiate and enter into the Administrator Agreement with the Fund Administrator, after consultation with the Environmental Parties. The Administrator Agreement, which shall be in writing, shall be substantially consistent with this Protocol and shall include all Fund Administrator obligations set forth herein. The Attorney General's Office and Environmental Parties shall oversee performance of the Fund Administrator and compliance with the Administrator Agreement, but the Attorney General's Office, Environmental Parties, and the Fund Advisors acting on behalf of the Environmental Parties shall have no liability to Developer or any other party for any alleged shortcomings related to the monitoring of the Fund Administrator or the Fund Administrator's

implementation of the Administrator Agreement. The Attorney General's Office shall, after consultation with the Fund Advisors and notice to Environmental Parties, have discretion to terminate the duties of the Fund Administrator if it determines the Fund Administrator is unable to adequately carry out its obligations.

(c) If the Fund Administrator provides written notice to the Attorney General's Office of its intent to resign, or the Attorney General's Office, following consultation with the Fund Advisors and notice to Environmental Parties, determines that the Fund Administrator is otherwise unable to carry out its obligations as Fund Administrator under the Administrator Agreement, the Attorney General's Office shall direct the Fund Administrator to transfer all funds in the GHG Mitigation Fund to the GHG Mitigation Fund Escrow Account, and the Attorney General's Office shall, following consultation with the Environmental Parties, use best efforts to select a replacement third-party Fund Administrator to perform the functions of the Fund Administrator under the Administrator Agreement ("Replacement Fund Administrator"). Upon appointment and entry into a replacement Administrator Agreement with the Attorney General's Office after consultation with the Environmental Parties, the Replacement Fund Administrator shall have the powers and duties of the Fund Administrator under this Protocol. Once a Replacement Fund Administrator is appointed and has established a new account meeting the requirements of the GHG Mitigation Fund, the Attorney General's Office shall authorize the transfer of all funds in the GHG Mitigation Fund Escrow Account to the new account, which shall become the replacement GHG Mitigation Fund.

3.3 GHG Mitigation Fund

(a) **Establishment of GHG Mitigation Fund.** Pursuant to the Settlement Agreement, an account known as the "Otay Ranch Village 13 Greenhouse Gas Mitigation Fund" shall be established by the Fund Administrator as an interest-bearing account. The Fund Administrator shall receive monies either (1) deposited by Developer directly into the GHG Mitigation Fund pursuant to Section 3.3(b)(2) of the Settlement Agreement or (2) directed from the GHG Mitigation Fund Escrow Account established pursuant to Section 3.3(b)(2)(A) of the Settlement Agreement, subject to approval by the Attorney General's Office, to be deposited into the GHG Mitigation Fund. The Fund Administrator shall disburse monies from the GHG Mitigation Fund pursuant in accordance with the Administrator Agreement and any approved Grant Agreement.

(b) **Purpose of the GHG Mitigation Fund.** The GHG Mitigation Fund shall be organized solely and exclusively for the purpose of funding Approved Projects that: (a) cause or will result in the reduction of GHG emissions in San Diego County; and (b) have been or are approved pursuant to the terms of the Administrator Agreement. The funds in the GHG Mitigation Fund shall be used to provide grants to fund, in whole or in part, projects in San Diego County for the benefit of the citizens of California that will be recommended by the Fund Administrator and approved by the Attorney General's Office, after consultation with the Fund Advisors, pursuant to Sections 3.3(f)-(i), below, and any guidelines or other writings developed

by the Fund Administrator, following consultation with the Attorney General's Office and Fund Advisors, to implement the Administrator Agreement.

(c) **Returned Approved Project Monies.** Any funds allocated for any Approved Project that are (1) not allocated by the Fund Recipient for use for their intended purpose by five (5) years after the disbursement, and (2) otherwise not used for the designated Approved Project, shall be returned to the Fund Administrator by the Fund Recipient and deposited into the GHG Mitigation Fund. All Fund Recipients shall agree to this provision as a condition of their receipt of project funding.

(d) **Interest.** The GHG Mitigation Fund shall also include all interest accrued on monies in the GHG Mitigation Fund. As a condition to receipt of funds under the Administrator Agreement, all Fund Recipients shall agree that any interest earned and not used for Approved Projects shall be deposited or returned into the GHG Mitigation Fund.

(e) **Fund Disbursements.**

(i) Monies from the GHG Mitigation Fund shall be used solely and exclusively for the following and shall be disbursed only within the following parameters:

(1) To fund grants for Approved Projects identified by the Fund Administrator and approved by the Attorney General's Office after consultation with the Fund Advisors, based on the GHG Mitigation Fund Project Criteria listed in Section 3.3(g), below, and as further specified in any guidelines or other documentation drafted by the Fund Administrator following consultation with the Attorney General's Office and the Fund Advisors to implement the Administrator Agreement. The funding of an Approved Project may only occur after a Fund Recipient has entered into a Grant Agreement with the Fund Administrator agreeing to comply with the terms and conditions set forth therein.

(2) To reimburse the Fund Administrator for administrative tasks performed for the GHG Mitigation Fund, as described in Section 3.3(f)(iv), below.

(ii) The GHG Mitigation Fund shall not be used to compensate the Environmental Parties or any Fund Advisor for any time spent carrying out his or her responsibilities, as defined here and in any guidelines or other documentation prepared by the Fund Administrator, following consultation with the Attorney General's Office and Fund Advisors, intended to implement the Administrator Agreement. The GHG Mitigation Fund may be used to compensate the Attorney General's Office for reasonable expenses, including attorneys' fees, incurred in carrying out its responsibilities under this Protocol, subject to approval by Environmental Parties.

(f) **Fund Administrator.**

(i) The GHG Mitigation Fund shall be administered by the Fund Administrator. The Administrator Agreement shall provide the Fund Administrator with the

powers reasonably necessary to implement the purposes of the GHG Mitigation Fund as set forth in this Protocol.

(ii) The Fund Administrator shall have authority to accept monies into the GHG Mitigation Fund and disburse the monies from the GHG Mitigation Fund in accordance with the Administrator Agreement (which shall be consistent with this Protocol), any approved Grant Agreement(s), and any written directives from the Attorney General's Office.

(iii) The Fund Administrator shall review project proposals on a periodic basis and determine whether such proposals comply with the GHG Mitigation Project Criteria, described in Section 3.3(g) below. The Fund Administrator shall then analyze such proposals, and determine whether to recommend that the Attorney General's Office approve such proposed projects to receive funding.

(iv) Once the Attorney General's Office approves an Approved Project in writing, the Fund Administrator shall enter into a Grant Agreement with the selected Fund Recipient and shall make disbursements from the GHG Mitigation Fund for the Approved Project. Such Grant Agreement shall be consistent with the model provided by the Attorney General's Office.

(v) The Fund Administrator, in consultation with the Attorney General's Office, shall take action to recover funds from any Fund Recipient that fails to comply with the Fund Recipient Responsibilities, the Grant Agreement, or any other requirements or standards set forth in this Protocol.

(vi) The Fund Administrator shall perform, at the expense of the GHG Mitigation Fund, administrative tasks as necessary or appropriate to implement the purposes of the GHG Mitigation Fund. Such tasks may include, but are not limited to, the following:

(1) Retention of one or more consultants with GHG mitigation expertise and/or attorneys to assist with development and implementation of a program to solicit, review and analyze proposals for projects to fund;

(2) Solicitation, review, and analysis of proposals for individual projects seeking to receive funding from the GHG Mitigation Fund;

(3) Identification of projects that the Fund Administrator recommends receive funding from the GHG Mitigation Fund and discussion of same with the Attorney General's Office and the Fund Advisors, as appropriate;

(4) Preparation of Grant Agreements between the Fund Administrator and the Fund Recipients for Approved Projects;

(5) Tracking/oversight of Approved Projects that receive funding from the GHG Mitigation Fund;

(6) Tracking/oversight of overall funds, including funds received into and disbursed from and interest accrued on the GHG Mitigation Fund;

(7) Preparation of annual reports and posting of same on the Fund Administrator's website; and

(8) Any other responsibilities identified in the Administrator Agreement or in any guidelines or other documentation prepared by the Fund Administrator following consultation with the Attorney General's Office to implement the Administrator Agreement.

(vii) The Fund Administrator shall maintain, and present to the Attorney General's Office upon request, all documents to substantiate the administrative tasks performed and the reasonable costs thereof while funds are in the GHG Mitigation Fund. In no event shall the Fund Administrator expend more than ten percent (10%) of the GHG Mitigation Fund for administrative and overhead costs, including but not limited to the costs identified above; provided, however, that if the Attorney General's Office and Environmental Parties determine after reasonable diligence that a qualified Fund Administrator cannot be secured without increasing the allowance for administrative and overhead costs, that allowance may be increased to the amount reasonably necessary to successfully implement the program. Administrative and overhead costs incurred by the Fund Administrator in excess of the allowance shall be borne by the Fund Administrator.

(viii) Within three (3) months of the end of any calendar year, the Fund Administrator shall provide the Attorney General's Office, with copies to the Fund Advisors, with an itemized statement of the costs incurred in administering the GHG Mitigation Fund during that year.

(ix) The Fund Administrator shall manage the funds in the GHG Mitigation Fund to achieve the purposes of the GHG Mitigation Fund, described above, and in compliance with the Administrator Agreement, and any additional documents draft by the Fund Administrator, following consultation with the Attorney General's Office, to implement the Administrator Agreement.

(x) The Fund Administrator shall draft any Grant Agreement with a Fund Recipient, which shall be consistent with the model provided by the Attorney General's Office.

(xi) The GHG Mitigation Fund shall be subject to audits.

(xii) The rights, powers, and duties of the Fund Administrator will terminate when the Administrator Agreement terminates.

(g) **GHG Mitigation Fund Project Criteria.**

(i) Eligible projects for funds from the GHG Mitigation Fund must:

- (1) Reduce GHG emissions¹ in San Diego County;
- (2) Not directly benefit any development project in Otay Ranch, or any project in which Developer or any parent or subsidiary of Developer has a financial interest;
- (3) Not be used to satisfy any mitigation measures, permit requirements or other conditions of approval for any development project;
- (4) Not be used for vegetation management/removal projects including but not limited to creation of fuel breaks, thinning or removal of native trees or chaparral or sage scrub vegetation, prescribed fire nor “regenerative” or similar agricultural practices; and
- (5) Go beyond the requirements of federal, state, and local law.

(ii) Examples of potentially eligible projects, provided they meet the GHG Mitigation Fund Project Criteria, include but are not limited to (1) providing need-based subsidies for the installation of solar panels and batteries, other residential and commercial and public building electrification and energy efficiency improvements, purchase of private electric vehicles, electrification of vehicle fleets, and electrification of equipment, (2) installation of public electric vehicle charging stations, (3) installation or expansion of bicycle and pedestrian transportation infrastructure (excluding conserved natural lands), (4) need-based passes for public transportation, (5) urban tree planting, (6) conservation acquisition of natural land entitled or zoned for development, and (7) native habitat restoration.

(iii) When feasible, projects should be selected that:

- (1) Result in GHG emissions reductions that are real, permanent, quantifiable, verifiable, enforceable, and additional, as those terms are defined in Division 25.5 of the Health and Safety Code (Assembly Bill 32 or AB 32) (Health and Safety Code § 38562(d)(1) and (2));
- (2) Support efforts to improve air quality in areas that are most heavily impacted by air pollution in San Diego County, including Environmental Justice Communities; and
- (3) Receive funding from other available funding sources, including but not limited to State, local, or federal incentive programs, so as to maximize the

¹ Greenhouse gas emissions, for purposes of this Protocol and the GHG Mitigation Fund, include those identified in California Code of Regulations, title 17, section 95810.

number of projects the GHG Mitigation Fund can support and the benefits it ultimately leverages.

(iv) During the project selection process, the Fund Administrator and the Attorney General's Office shall give preference to eligible projects that reduce air pollution in or otherwise benefit individuals, businesses, and agencies in Environmental Justice Communities in southern San Diego County.

(v) During the project selection process, the Fund Administrator and the Attorney General's Office shall endeavor to select a slate of projects that collectively maximize available GHG emissions reductions.

(vi) During the project selection process, the Fund Administrator and the Attorney General's Office may give preference to eligible projects that advance nascent or novel technologies that reduce greenhouse gas emissions that are economically and technologically feasible.

(vii) During the Project selection process, the Fund Administrator and the Attorney General's Office shall ensure that eligible projects shall not financially benefit the Attorney General's Office, any Fund Advisor, any employer of any Fund Advisor, any individual person employed by, or entity represented by any Fund Advisor, or any individual employed by or associated with the Fund Administrator, or any individual or entity otherwise involved in the selection of projects to receive funding.

(h) Responsibilities of the Attorney General's Office.

(i) The Attorney General's Office will monitor and oversee the Fund Administrator's responsibilities and implementation of the Administrator Agreement. The Attorney General's Office shall, when feasible, consult with the Fund Advisors when doing so as detailed in the subparagraphs below.

(1) The Attorney General's Office shall consult with the Fund Administrator on the development of any guidelines, written agreements between the Fund Administrator and Fund Recipients, project-proposal review and selection, Grant Agreements, fund disbursements, or any other documents drafted to implement the Administrator Agreement. The Attorney General's Office may seek out technical advisors as needed on matters relevant to the disbursement of monies from the GHG Mitigation Fund, the costs of which shall be paid out of the GHG Mitigation Fund (subject to the limitation on administrative costs).

(ii) The Attorney General's Office shall review the Fund Administrator's recommendations and shall, after consultation with the Fund Advisors, make decisions regarding the selection of recipients for GHG Mitigation Fund Grants consistent with this Protocol, the Administrator Agreement, and any guidelines or other documents drafted by the Fund Administrator to implement the Administrator Agreement following consultation with the Attorney General's Office.

(iii) Once the Attorney General's Office approves an Approved Project, the Attorney General's Office shall so notify the Fund Administrator in writing.

(iv) The Attorney General's Office shall have the following additional responsibilities:

(1) Grant Selection Process: The Attorney General's Office may, following consultation with the Fund Advisors, establish any additional standards and procedures to be used to review and to approve applications for grants or services to be funded by the GHG Mitigation Fund. Such standards shall include, but not be limited to, those relating to scope of work of the grant applications and grants, general terms, reporting, any cap on per-project disbursements, and recapture of funds.

(2) Fund Recipient Guidelines: The Attorney General's Office shall, following consultation with the Fund Advisors, have authority to establish additional guidelines and procedures to be complied with by Fund Recipients, consistent with the Fund Recipient Responsibilities in Section 3.3(j), below.

(3) Meetings: The Attorney General's Office shall meet with the Fund Advisors at least annually to provide an update regarding the status of implementation of this Protocol. The Attorney General's Office and the Fund Advisors may participate in a meeting through use of telephone or video conference, rather than meet in person.

(4) Attorney General's Office Action: For any action by the Attorney General's Office that this Protocol requires or allows to be taken after consultation with the Fund Advisors, the consultation requirement shall be deemed satisfied if the Attorney General's Office has made reasonable efforts to solicit the advice of the Fund Advisors and has not received a response from one or more Fund Advisors.

(5) Payment of Administrative Costs. The Attorney General's Office, following consultation with the Fund Advisors when feasible, shall, within thirty (30) days of receipt of the Fund Administrator's annual administrative costs statement that complies with the terms of the Administrator Agreement, authorize payment to the Fund Administrator from GHG Mitigation Fund.

(i) Fund Advisor Responsibilities.

(i) Environmental Parties shall collectively select no more than two individuals to serve as Fund Advisors, at least one of whom shall be a representative selected by the Sierra Club. When feasible, each Fund Advisor shall be employed, or an attorney or technical consultant retained, by one of the Environmental Parties or shall be a member of one of the Environmental Parties. Environmental Parties shall advise the Attorney General's Office in writing of the names of the selected Fund Advisors.

(ii) Each Fund Advisor shall serve for an initial two-year term, which may be renewed in writing. If a Fund Advisor's term is renewed, or a Fund Advisor needs to be replaced before the end of a two-year term, Environmental Parties shall advise the Attorney General's Office in writing of such renewal or replacement.

(iii) The Fund Advisors shall consult with the Attorney General's Office as set forth in this Protocol.

(j) **Fund Recipient Responsibilities.**

(i) In addition to any responsibilities imposed by any Fund Recipient Guidelines established by the Fund Administrator following consultation with the Attorney General's Office, a Fund Recipient shall have the following responsibilities:

(1) The Fund Recipient shall use the funds only for the purposes described in the applicable Grant Agreement.

(2) The Fund Recipient shall comply with the terms of the applicable Grant Agreement, as well as any requirements set forth in any Fund Recipient Guidelines created by the Fund Administrator following consultation with the Attorney General's Office.

(3) The Fund Recipient shall maintain sufficient records for auditing purposes to substantiate any expenditure of the funds.

(4) The Fund Recipient shall provide to the Fund Administrator and/or the Attorney General's Office upon request all documents to substantiate the funds expended and work completed to implement the Approved Project. The Fund Recipient shall provide these documents, or any reports summarizing the status of expenditures of the funds, to the Fund Administrator and/or the Attorney General's Office within thirty (30) calendar days of any such request. The Fund Administrator and/or the Attorney General's Office may place reasonable reliance on the accuracy of reports or other information provided by the Fund Recipient to satisfy this obligation.

(5) The Fund Recipient shall return to the Fund Administrator any funds allocated for any Approved Project that are not used by the Fund Recipient for their intended purpose within a reasonable period of time (as may be specified in the Grant Agreement) after disbursement of the funds. Any written agreement by Fund Recipients required by this Fund Agreement or other documentation disbursing funds to a specific project shall contain a provision to this effect.

(6) If the Fund Administrator and/or the Attorney General's Office determines that the Fund Recipient has violated or is violating the terms of an applicable Grant Agreement, the Fund Recipient shall return the funds to the GHG Mitigation Fund, if demanded by the Fund Administrator.

(k) **Fund Termination**

(i) The GHG Mitigation Fund shall remain in place until thirty (30) days after the date the Fund Administrator is notified in writing by the Attorney General's Office that the fund shall be terminated ("Fund Termination Date").

(ii) The GHG Mitigation Fund may only be terminated upon receipt by the Fund Administrator of written authorization from the Attorney General's Office to terminate the GHG Mitigation Fund.

(iii) The Attorney General's Office shall provide written authorization to the Fund Administrator to terminate the GHG Mitigation Fund on the Fund Termination Date or sooner if there are no funds remaining in the GHG Mitigation Fund and no reasonable expectation that funds shall be deposited or returned to the GHG Mitigation Fund.

(iv) In the event there is any amount of funds remaining in the GHG Mitigation Fund upon receipt by Fund Administrator by the Fund Termination Notice, the Attorney General's Office shall issue a public plan and timeline for final disbursement of the funds from the GHG Mitigation Fund in a manner consistent with the GHG Mitigation Fund.

4. Miscellaneous Provisions

4.1 Timing

(a) Time is of the essence in the performance of all obligations identified in the Administrator Agreement.

4.2 Modification and Amendment of Administrator Agreement

(a) After its execution, the Administrator Agreement shall be modified or amended solely by mutual agreement of Environmental Parties, the Attorney General's Office, and the Fund Administrator. Any such modification, and the assent of each party thereto, must be in writing.

4.3 Dispute Resolution

(a) The Administrator Agreement may provide for procedures for resolving disputes between or among the parties to the Administrator Agreement.

EXHIBIT 4
Form of Consent Judgment

EXHIBIT D

1 William J. White (SBN 181441)
Laura D. Beaton (SBN 294466)
2 SHUTE MIHALY & WEINBERGER LLP
396 Hayes Street
3 San Francisco, California 94102
Telephone: (415) 552-7272
4 Facsimile: (415) 552-5816
White@smwlaw.comBeaton@smwlaw.com

5
6 Attorneys for Endangered Habitats League
and California Native Plant Society
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO**

10 CENTER FOR BIOLOGICAL DIVERSITY,
11 PRESERVE WILD SANTEE, CALIFORNIA
CHAPARRAL INSTITUTE, ENDANGERED
12 HABITATS LEAGUE, CALIFORNIA
13 NATIVE PLANT SOCIETY, and SIERRA
CLUB,

14 Petitioners,

15 v.

16 COUNTY OF SAN DIEGO, BOARD OF
17 SUPERVISORS OF THE COUNTY OF SAN
DIEGO, and DOES 1 through 20, inclusive,

18 Respondents,

19
20 BALDWIN & SONS, LLC; MOLLER OTAY
LAKES INVESTMENTS, LLC; and DOES 21
21 through 40, inclusive,

22 Real Parties in Interest.
23
24
25
26
27
28

Case No. 37-2020-00046553-CU-WM-CTL

[PROPOSED] CONSENT JUDGMENT

[Code Civ. Proc. §§ 1085, 1094.5; Pub. Res.
Code § 21000, et seq. (California
Environmental Quality Act); Gov. Code §
65300 et seq. (State Planning and Zoning
Law); Code Civ. Proc. § 1060]

1 The above-captioned matter involves challenges to Respondents' approvals regarding the
2 Otay Ranch Resort Village 13 project ("Project").

3 On DATE, 2025, Petitioners Center for Biological Diversity, Preserve Wild Santee,
4 California Chaparral Institute, Endangered Habitats League, California Native Plant Society, and
5 Sierra Club (collectively, "Petitioners"); Petitioner-Intervenor the People of the State of
6 California, by and through Attorney General Rob Bonta ("People"); Real Parties in Interest
7 Baldwin and Sons LLC and Moller Otay Lakes Investments LLC ("Real Parties"); and the entities
8 Lakeview 1 LLC and Lakeview 2 LLC, which co-own the Project site with Moller Otay Lakes
9 Investments LLC (collectively, the "Settling Parties") entered into a Settlement Agreement,
10 attached hereto as Exhibit A, to resolve the above-referenced lawsuit regarding the Project.

11 On _____, in response to a joint motion by the Settling Parties [and Respondent County
12 of San Diego], the Court, having reviewed the Settlement Agreement and the record of
13 proceedings in this matter, and good cause appearing therein, and having found that the settlement
14 between the Parties is fair and reasonable and in the public interest, approved the form of this
15 judgment, and conditioned entry of judgment on the satisfaction of certain conditions in
16 accordance with the Settlement Agreement.

17 On _____, the parties informed the Court that those conditions have been satisfied.

18 Accordingly,

19 IT IS ORDERED AND ADJUDGED:

20 1. The Settlement Agreement attached hereto as Exhibit A and incorporated by
21 reference herein as if set out in full, is hereby approved and entered according to its terms as the
22 Final Judgment in this action.

23 2. The entry of this Judgment shall constitute the full and final determination of the
24 rights of the Settling Parties in this action, consistent with California Code of Civil Procedure
25 section 577.

26 3. The Court retains and reserves jurisdiction over the Settling Parties to enforce the
27 terms of the Settlement Agreement pursuant to Code of Civil Procedure 664.6.

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Dated: _____

Hon. Joel R. Wohlfeil
JUDGE OF THE SUPERIOR COURT

EXHIBIT 5

Attorneys' Fees Payee Information

Center for Biological DiversityInitial Payment: **\$187,000.00**Final Payment: **\$71,000.00**

Payable via wire transfer; contact Peter Broderick (above) to arrange

Shute, Mihaly & Weinberger LLPInitial Payment: **\$349,000.00**Final Payment: **\$133,000.00**

Payable via wire transfer; contact Laura Beaton (above) to arrange

Chatten-Brown Law Group, APCInitial Payment: **\$378,000.00**Final Payment: **\$144,000.00**

Payable via wire transfer; contact Josh Chatten-Brown (above) to arrange

People of the State of California, *ex rel.* Rob Bonta, Attorney General of CaliforniaFinal Payment: **\$668,000.00**

Payment instructions: Developer shall pay **\$668,000.00** to the Attorney General for reimbursement for investigative costs, attorneys' fees, litigation costs, and other enforcement costs incurred in connection with the Lawsuit, as defined in the Settlement Agreement. The check shall be made payable to the "California Department of Justice Litigation Deposit Fund." The check shall bear on its face the case name (*Center for Biological Diversity, et al. v. County of San Diego, et al.*) and internal docket numbers in this matter (SD2021302024; SA2019102285). The check shall be delivered to Catherine M. Wieman, Deputy Attorney General, Environmental Justice and Protection Section, Office of the Attorney General, 300 South Spring Street, Suite 1702, Los Angeles, CA 90013. The money, and any interest accrued thereon, paid to the Attorney General's Office shall be administered by the California Department of Justice and used by the Environmental Justice and Protection and Land Use and Conservation Sections of the Public Rights Division of the Attorney General's Office, until all funds are exhausted, for any of the following purposes: (1) implementation of the Attorney General's authority to protect the environment and natural resources of the State of California pursuant to Government Code sections 12600, *et seq.* and as Chief Law Enforcement officer of the State of California pursuant to Article V, section 13, of the California Constitution; (2) for the Attorney General's enforcement of California's land use and environmental laws, at the sole discretion of the Attorney General; and (3) other land use and environmental actions or initiatives which benefit the State of California and its citizens as determined by the Attorney General. Such funding may be used for the costs of the Attorney General's investigation, filing fees and other court costs, payments to expert witnesses and technical consultants, purchase of equipment, laboratory analyses, personnel costs, travel costs, and other costs necessary to pursue land use and environmental actions or initiatives investigated or initiated by the Attorney General for the benefit of the State of California and its citizens.

EXHIBIT 6**Form of Memorandum of Agreement**

[insert recording form]

THIS MEMORANDUM OF SETTLEMENT AGREEMENT (this “Memorandum”), is made as of _____, 2024, by and between CENTER FOR BIOLOGICAL DIVERSITY, a California nonprofit public benefit corporation; PRESERVE WILD SANTEE, a volunteer community environmental organization; CALIFORNIA CHAPARRAL INSTITUTE, a California nonprofit public benefit corporation; ENDANGERED HABITATS LEAGUE, a California nonprofit public benefit corporation; CALIFORNIA NATIVE PLANT SOCIETY, a California nonprofit public benefit corporation; SIERRA CLUB, a California nonprofit public benefit corporation; THE PEOPLE OF THE STATE OF CALIFORNIA, *ex rel.* Rob Bonta, Attorney General of California; BALDWIN & SONS, LLC, a California limited liability corporation; and MOLLER OTAY LAKES INVESTMENTS, LLC, a Delaware limited liability corporation, (collectively, the “Parties”).

1. Settlement Agreement. The Parties have entered into that certain Settlement Agreement Regarding Otay Ranch Village 13 Project dated as of _____, 2025 (as amended or otherwise modified from time to time, the “Settlement Agreement”), pursuant to which the Parties have agreed to certain terms concerning the future sale and/or use of real property located in the County of San Diego, State of California and legally described on Exhibit A attached hereto and by this reference incorporated herein (the “Property”), subject to the terms and conditions set forth in the Settlement Agreement, which terms and conditions run with the land and are binding on future owners of the Property. Those terms and conditions include, without limitation, a defined footprint demarcating the limits of development (as depicted on Exhibit A hereto), a requirement that lands outside the development footprint be preserved in perpetuity, a requirement that future development of the Property include certain minimum mitigation measures, an obligation to make agreed mitigation payments prior to certain development approvals to mitigate greenhouse gas impacts, and an obligation to pay attorneys’ fees. All of the terms, conditions, provisions and covenants of the Settlement Agreement are incorporated in this Memorandum by reference as though written out at length herein, and the Settlement Agreement and this Memorandum shall be deemed to constitute a single instrument or document.

2. Purpose of Memorandum. This Memorandum is prepared for recordation purposes to evidence the Parties’ agreement to certain terms regarding the future sale and/or use of the Property in accordance with the terms, conditions, provisions and covenants of the Settlement Agreement, and in no way modifies the terms, conditions, provisions and covenants of the Settlement Agreement. In the event of any inconsistency between the terms, conditions, provisions and covenants of this Memorandum and of the Settlement Agreement, the terms, conditions, provisions and covenants of the Settlement Agreement shall prevail.

3. Counterparts. This Memorandum may be executed in one or more counterparts, each of which when executed shall constitute an original, but all of which together shall constitute one and the same agreement.

[Signature and Notary Pages Immediately Follow]

In witness whereof, the parties have each executed this Memorandum as of the date first written above.

[Insert signatures for all parties]

[Insert Settlement Agreement Exhibit 2 as “Exhibit A”]



TO: Baldwin & Sons, Inc.
Moller Otay Lakes Development
David Hubbard, Gatzke Dillon & Ballance LLP

FROM: Phuong Nguyen, PE; CR Associates (CRA)

DATE: November 26, 2024

RE: Otay Ranch Resort Village 13 Alternative I Fire Evacuation Analysis – Technical Memorandum CONFIDENTIAL/INADMISSIBLE FOR ANY PURPOSE

The purpose of this technical memorandum, which was prepared in coordination with the fire professionals at Dudek, is to assess the time required for emergency evacuation from the site of the Otay Ranch Resort Village 13 Alternative Project I (“Alternative I” or “Project”), under several scenarios, assuming a wind-driven fire that results in a required evacuation affecting the Project site and surrounding community.¹ The purpose of the traffic evacuation simulations and related analysis presented here is to identify the vehicle travel times required under the various simulated evacuation events. An evacuation plan, separate from the analysis presented here, was previously prepared for the Otay Ranch Resort Village 13 Project (Alternative H), which focuses on resident and visitor evacuation awareness and preparedness. The evacuation plan applies equally to Alternative I.

Background and Purpose

This memorandum provides a summary of the various traffic simulation analyses conducted relative to evacuation of the Project site and surrounding community due to a wildfire. The simulations have been conducted for a variety of evacuation scenarios described below. Modeling potential evacuation traffic impacts requires that numerous assumptions be made to address the many variables that would impact a real-life evacuation scenario, including the number of existing vehicles in the community, the number of Project vehicles that will need to evacuate, the roadway capacities and whether enhancements are provided (e.g., extra lanes, lane widening, signaling intersections), the total number of intersections and how they will be operating, the final destination, the targeted evacuation area, the total mobilization time, vegetation communities, weather and wind, fire spread rates, humidity, topography, risk to homes, locations of ignitions and new fire starts, lead time needed, etc. There are thousands of potential model scenarios, and each fire scenario poses variations that regularly change and would be reassessed “real-time” during a wildfire. Agencies involved in implementing an evacuation order may be informed by the Project-specific modeling in this memorandum but will also rely on situational awareness and wildfire pre-plans, which act as operational tools to provide high-level fire assessments of assets at risk, preferred evacuation approaches, and safety information to inform evacuation decision-making.

The following analysis is intended to present representative evacuation scenarios using a data driven approach, conservative assumptions, and the modeling technology considered to be industry leading and most applicable to the conditions being analyzed². In an actual emergency, fire command will take into account numerous factors including fire location and spread rates, wind speeds and direction, humidity, topography, fuel loading, emergency access routes, evacuation routes, time needed to evacuate, and other variables, and will issue specific directives consistent with the process and protocols outlined in the County of San Diego’s Emergency Operations Plans. The evacuation traffic model used herein is appropriate for planning and comparison purposes and would provide

¹ This memorandum was prepared with technical input regarding fire behavior from Dudek’s fire protection planning team.

² This evacuation analysis was conducted using the Vissim microsimulation software, which is one of the leading microsimulation software models available that can accurately replicate human driving behavior during an evacuation, including yielding at a congested location and delay due to stop & go traffic.



useful information to agencies and emergency managers regarding evacuation timeframes for purposes of informing managers' issuance of specific evacuation orders. For that reason, it will be provided to agencies and emergency managers; however, during a wildfire, residents should comply with directives from authorities and first responders conducting the evacuation or emergency response, not rely on this evacuation traffic model.

This technical memorandum and associated analysis was performed in accordance with the guidance and information provided in the California Governor's Office of Planning and Research Fire Hazard Planning Technical Advisory, and the California Office of the Attorney General Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under CEQA (AG Guidance), for the determination of evacuation times. The roadway network and vehicle input assumptions have been selected to simulate a "worst-case" evacuation scenario that would occur in the nighttime when all Alternative I residents and the surrounding community are at home when ordered to evacuate. This "worst-case" evaluation is not required by CEQA; indeed, CEQA requires the application of reasonable standards and criteria only. Nonetheless, this preparer imposed a "worst-case" evaluation out of an abundance of caution. In an actual wildfire event, it is likely that fewer residents would be present onsite. While other evacuation scenarios are also possible, such as evacuation during morning or evening peak traffic hours, during those hours, however, residents are likely to be away from their respective homes, thus they are likely already out of the evacuation area.

Similarly, although the Project site includes an elementary school, residents may not be home when an evacuation order is issued, depending on the time of the emergency. In such scenarios, school personnel would implement the Comprehensive School Safety Plan (CSSP), as required by the California Education Code. This plan outlines procedures for various situations, establishes a chain of command (including roles like incident commander, safety officer, and student release and accountability staff), and details communication strategies both internally and with parents, as well as student release procedures. In the event of an emergency, each school would inform parents whether they can pick up their children on-site or need to meet at an off-site evacuation location. Therefore, if the elementary school needs to be evacuated, parents who are not already on-site will need to follow the school's procedures and meet at an off-site location. This would result in fewer vehicles evacuating from the Project site.

Under an evacuation order, first responders and law enforcement personnel would not typically allow residents to return to areas that have been evacuated. Therefore, the worst-case is when everyone is already at home and they attempt to leave all at once, with multiple vehicles evacuating from the same dwelling unit in some cases.

The wildfire evacuation scenarios selected for this analysis were based on a comprehensive approach that included review of fire history³, including review of the Harris Fire evacuations in 2007, as well as the Lilac Fire evacuation in 2017, fire behavior science, area topography, fuel types, and the evolved approach to evacuations, which has become more targeted and surgical in recent evacuations instead of large, area wide, mass evacuations, which were the normal protocol prior to about 2015. In the highest probability wildfire scenarios that would result in evacuation, the perimeter populations in certain wildland urban interface locations are likely to comprise the priority populations to be targeted for evacuation. Specific to Alternative I, the entire Project area will include fire hardening construction, which will provide significant additional protection against exposure to wildfire via fuel management zones, fire-resistant landscape, hardscape, and other measures. However, some perimeter units, based solely on their closer proximity to native fuels, may be selected for occupant relocation or evacuation as a precautionary measure. This approach may be combined with targeted evacuations of more vulnerable populations within existing communities along Otay Lakes Road, as indicated in

³ <https://projects.capradio.org/california-fire-history/#6/38.58/-121.49>



the modeling analysis. This type of evacuation is consistent with the management practices of recent San Diego County wildfires (for example, the 2017 Lilac Fire) where the phased/surgical evacuation practice was implemented with great success.

Project Description

The proposed Project is located at the northeast corner of the Lower Otay Lake in unincorporated San Diego County. The Project study area is bordered by State Route 94 to the east, the Jamul Community to the north, Otay Lake to the south, and the City of Chula Vista, as well as I-805 and SR-125, to the west. **Figure 1** displays the proposed Project location and **Figure 2** displays the proposed Project site plan.

Alternative I would establish a primarily residential community on 450 acres of the Project site proximate to Otay Lakes Road. The new community would consist of 2,750 residential units, 15,000 square feet of mixed-use retail, parks, an elementary school, a fire station, and a public safety site. The remaining approximately 1,504 acres of the Project site, which comprise the northern, eastern, and southern portions of the site, would be preserved as open space with the development of Alternative I. In addition, the Project includes the widening of Otay Lakes Road, between Lake Crest Drive and proposed Project Driveway #2. The Project will also adhere to roadside clearance of vegetation within 20-feet of the pavement along the project's frontage. The analyses presented here incorporate these improvements into the roadway conditions, where applicable.

Methodological Approach

This evacuation analysis was performed for Alternative I to determine approximately how long it would take for residents of the Project and the surrounding community to evacuate to nearby urban areas in case of a fire emergency. Current evacuation practice typically targets the scope of the evacuation only to the area in immediate danger. Specifically, the County of San Diego utilizes the Genasys Evacuation system to provide precise evacuation information⁴. Targeting the area in immediate danger allows for better evacuation operations, reduces gridlock, and reserves sufficient travel way for emergency vehicles. Under this approach, first responders or law enforcement personnel will direct traffic at all major intersections during the evacuation process.

The San Diego County Operational Area Evacuation and Repopulation Policy #8-B⁵ provides the following procedures when an evacuation is needed:

Fire Department Responsibilities

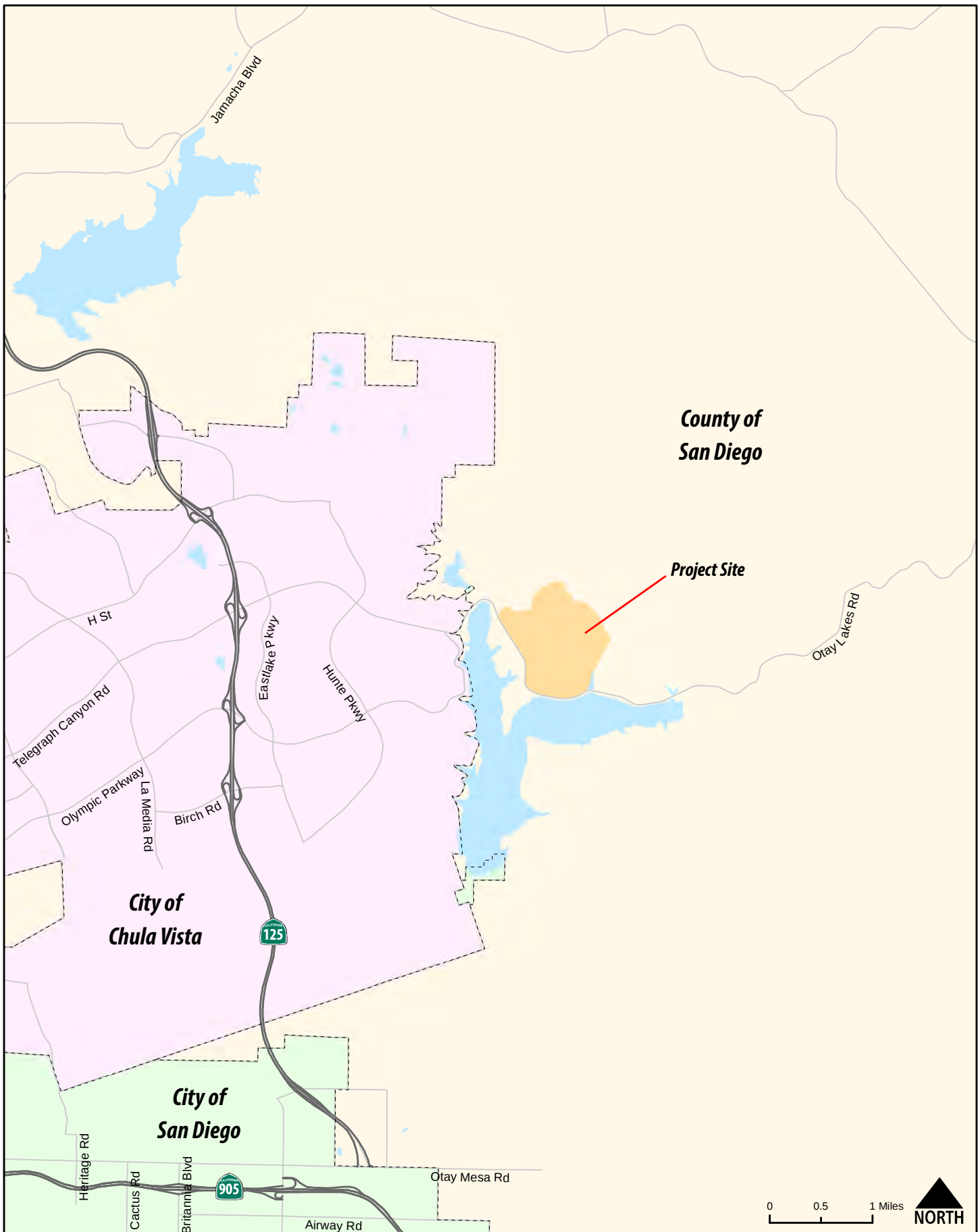
- Establish command of the Incident
- Conduct a situation assessment and evaluate the need for evacuations
- Establish an Incident Command Post (ICP) with sufficient room for representatives from other assisting agencies and announce its location
- Request Agency Representative from Law Enforcement to respond to the ICP.

Law Enforcement Responsibilities

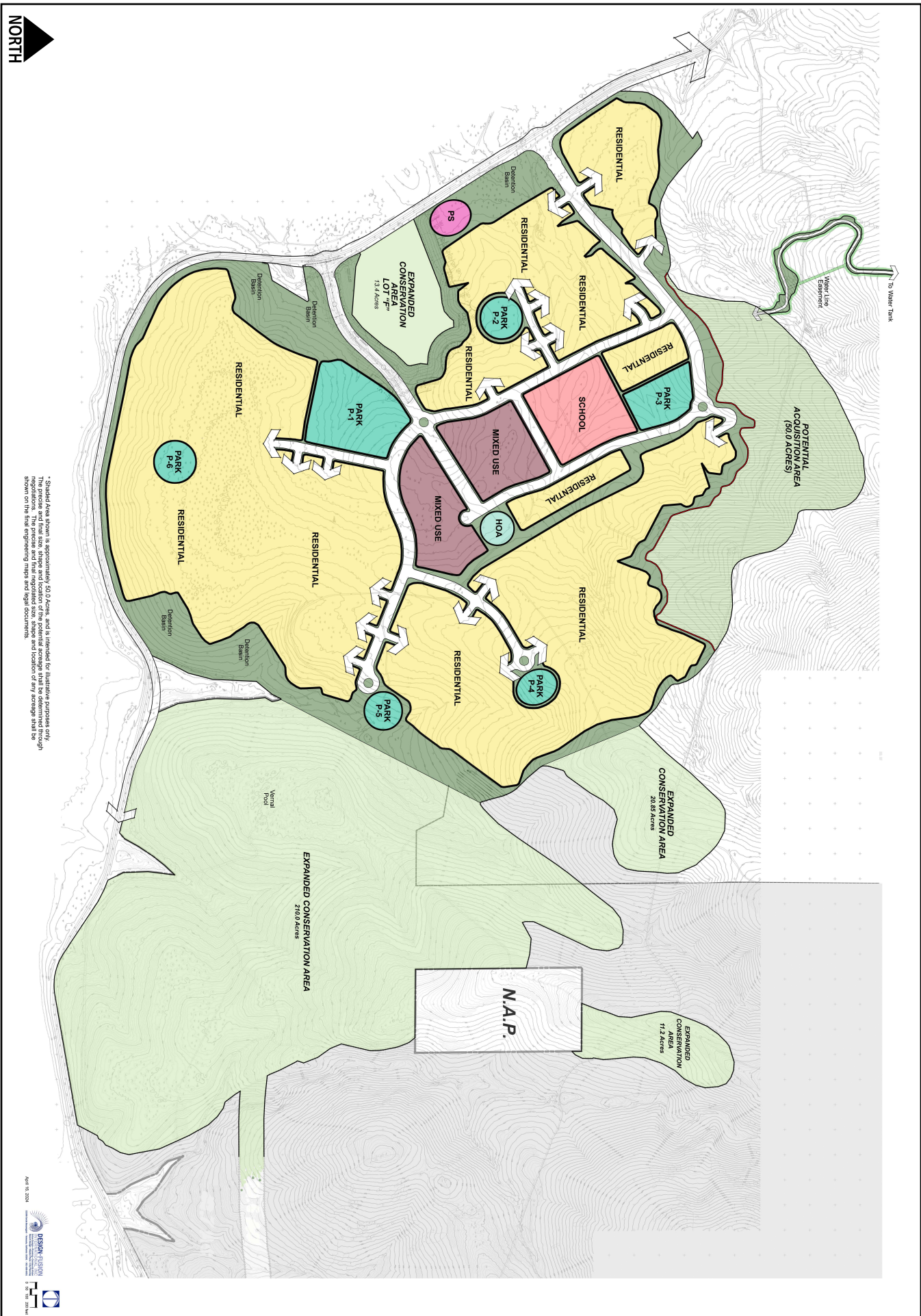
- Assign supervisor of the rank of Sergeant or above to the Incident Command Post and request a Deputy to locate with Operations Section Chief
- Maintain ingress and egress routes for emergency vehicles

⁴<https://www.sandiegouniontribune.com/news/public-safety/story/2024-05-30/new-evacuation-notification-system>

⁵ <https://sdoparea.org/wp-content/uploads/documents/8B%20Evacuation%20and%20Repopulation.pdf>



Resort Village Evacuation



Resort Village Evacuation

Figure 2
Project Site Plan

- Establish perimeter control, keeping unauthorized vehicles and pedestrians out of the involved area. Conduct evacuations, if required, at the direction of the Incident Commander
- Establish anti-looting security patrols, when safe to do so, for evacuated areas within the perimeter
- Maintain a Unit log

Joint Fire and Law Enforcement Responsibilities

- Evaluate and determine whether Law Enforcement role will be as an Agency Representative or Unified Incident Commander, depending on the scope of the Incident
- Assign a Law Enforcement supervisor to work closely with the Operations Section Chief or Incident Commander, whomever is determining the areas to be evacuated
- Assess and validate the need for an Evacuation Warning, Evacuation Order, and/or Shelter in Place — Determine the location, potential size, and direction of Incident travel or spread
- Unified Commanders determine potential for Incident spread and request the appropriate resources to complete the evacuation and mitigate the Incident concurrently

The approach above is demonstrated in a recent evacuation order where the roadway is closed to non-essential traffic prior to an evacuation order being issued. During the Border Fire 32 in August 2022⁸, for example, on August 31st, the San Diego County Sheriff's Department shut down SR-94 at 2:57 p.m. before issuing an evacuation order at 3:28 p.m.⁹. Such road closures are typically implemented to ensure that evacuating traffic has priority and to maintain clear pathways for law enforcement, first responders, and firefighting equipment.

When the incident commander (IC) deemed certain areas at risk due to fire conditions, an evacuation order was issued. Based on the San Diego County Operational Area Evacuation and Repopulation procedure, an evacuation order requires the movement of community members out of a defined area due to an immediate threat to life and property from an emergency incident. An evacuation order should be used when there is a potential for or an actual threat to civilian life, within 1 to 2 hours of such determination or when the IC deems it necessary to protect civilians. The purpose of an evacuation warning, in comparison, is to alert community members in a defined area of a potential threat to life and property from an emergency incident. An evacuation warning may be issued when the potential or actual threat to civilian life is more than 2 hours away. In this case, the evacuation trigger for the Project would likely be when a wild fire crosses SR-94 in an east-to-west direction.

As demonstrated in the Border Fire #32, the Thomas Fire, and other recent fires, evacuation orders were issued only to those persons facing a potential threat. In some cases, such as the Thomas Fire, law enforcement emphasized that the evacuation order was specific to certain areas to prevent a mass evacuation that could congest the roadway network and hinder their ability to prioritize those at the greatest risk.

While the targeted evacuation order/warning aims to ensure proper traffic flow and reduce stress at evacuation sites, some people may still choose to evacuate even if they are not facing an immediate threat. These individuals are known as shadow evacuees, and they increase the demand on the roadway network. The number of shadow evacuees varies by incident, influenced by their proximity to the fire. For this report, since the analysis is based on a mass evacuation scenario, shadow evacuees are already accounted for within each zone, and no additional shadow evacuees were assumed.

⁸ <https://x.com/SDSheriff/status/1565096377494818817>

⁹ <https://x.com/SDSheriff/status/1565104232688074752>



During the evacuation process, which can proceed aided by the roadside fuel modification zones that minimize evacuating vehicle exposure to wildfire exposure and create “fire hardened” travel corridors, wildfire progress may be slowed by fire-fighting efforts that would likely include fixed wing and helicopter fire-fighting assets. The Project will provide roadside fuel modification maintenance along its Otay Lakes Road frontage. Hand crews would also be deployed toward containment. Note that none of the evacuation scenarios presented here utilize counter-flow lanes, as these lanes are reserved for first responders, law enforcement, and fire fighters in case of unforeseen circumstances.

To present a reasonable range of possible scenarios, this analysis focuses on two types of evacuations: one that is localized and aligns with current fire evacuation protocols, and a second, highly conservative worst-case scenario that envisions evacuating a much larger area.

As to the study area, its selection was guided by several factors, including each community's or area's proximity to the Project site, and its proximity to Otay Lakes Road and SR-94, which is the evacuation roadway network that would be used by the proposed Project and potentially by the study area depending upon the evacuation routes established by any given evacuation order. In this manner, analysis of the proposed Project's effect on evacuation times for the study area communities could be most accurately assessed. Based on these criteria, Chen Ryan/Dudek determined the study area would encompass parts of the Jamul Community Planning Area, Barret Junction, Deerhorn Valley, Dulzura, Engineer Springs, Honey Springs, and the Thousand Trails Campground. The evacuation area was partitioned using shared evacuation routes between communities; for instance, SR-94 serves as a dividing line between different evacuation zones. This method is similar to the County of San Diego's Genasys Evacuation Grid system, which organizes parcels throughout San Diego County into evacuation grid areas. During an emergency, the IC may order the evacuation of one or more grids. However, this study conservatively assumes that the evacuation area would encompass multiple grids. **Figure 3** illustrates the Project's study area, with the existing land uses illustrated as Areas A through G, San Diego County Genasys Evacuation Grid, and the corresponding potential evacuation routes.

To assess the Project's impact on the surrounding communities, that is, how the Project would affect evacuation times, the analysis evaluates six different scenarios, which are detailed in the following section.



Figure 3
Evacuation Routes and Zones

Resort Village Evacuation



Scenario Description

This section provides a description of each of the different evacuation scenarios, including the number of evacuating vehicles for each of the land uses. Due to the uncertainty regarding each household's level of readiness to mobilize under an evacuation order, the analysis presented below does not include the time it takes for a household to mobilize once an evacuation order is issued. Determining the evacuation travel time is a common method for evaluating Project evacuations as it focuses on the active period when "wheels are rolling". Note that while some households may leave the area prior to an evacuation order for personal reasons, for a conservative analysis, all scenarios presented here are based on the presumption that all of the households and vehicles would leave together once an evacuation order is issued.

Regarding shadow evacuees, their number can vary based on the nature of the evacuation order and the specific area where the order was issued. However, based on data from the "Review of California Wildfire Evacuation from 2017 to 2019"¹⁰ research paper, the average percentage of shadow evacuees from the Creek Fire, Rye Fire, Skirball Fire, and Thomas Fire was approximately 30%. A shadow evacuation occurs when households evacuate without receiving an official evacuation order. For instance, if nearby areas were ordered to evacuate and residents of the Project site chose to leave without an official order, this would result in approximately 1,980 vehicles evacuating from the site concurrently with other areas.

The analysis considers three different evacuation scenarios: (1) existing land uses without the Project, (2) existing land uses with Project, and (3) existing land uses with partial Project (895 units) and no widening of Otay Lakes Road. For each of these three scenarios, the following two different evacuation strategies are studied: (A) a full evacuation and (B) a targeted evacuation. For example, Scenario 1A represents a full evacuation of existing land uses (without Project) while Scenario 2B represents a targeted evacuation of the existing land uses and Project. Because the full evacuation strategy would capture all shadow evacuees, an additional scenario studying those shadow evacuees was not added as it would have resulted in a shorter evacuation time than the already studied scenarios.

Scenario 1A – No Project/Existing Land Uses – Full Evacuation. This scenario depicts the time it will take to evacuate the existing land uses along Otay Lakes Road and SR-94 and includes a portion of the Jamul Community Planning Area¹¹, Barret Junction, Deerhorn Valley, Dulzura, Engineer Springs, Honey Springs, and the Thousand Trails Campground. These land use (areas) were selected based on their proximity to the Otay Lakes Road & SR-94 intersection and the fact that these areas potentially could be directed to use the same evacuation route that would be used by the proposed Project, that is evacuation via either Otay Lakes Road or SR-94. This scenario covers all areas (A through G as shown on Figure 3).

For purposes of this analysis, it is assumed that all residents of the Jamul Community living along SR-94 and south of Rancho Jamul Drive would evacuate southbound via SR-94 and Otay Lakes Road. This evacuation route was selected based on travel time measurements using Google Maps, showing that it would take approximately the same amount of time for evacuees to drive out of harm's way, to either El Cajon or Chula Vista.

¹⁰ <https://escholarship.org/uc/item/5w85z07g>

¹¹For purposes of the analysis, it is assumed that all residents of the Jamul Community residing along SR-94 and south of Rancho Jamul Drive would evacuate southbound via SR-94 and Otay Lakes Road. This location was chosen based on travel time measurements using Google Maps, indicating that it would take approximately the same amount of time for evacuees to drive to either El Cajon or Chula Vista. Travel time measurements are included in Attachment A.

This scenario presents a conservative analysis for the following reasons:

- Assumption: All evacuating vehicles from the listed communities would head toward Chula Vista via Otay Lakes Road. However, recent fire evacuations, such as the Border Fire #32, illustrate that some communities south of Jamul were directed toward El Cajon, Jamul, and Rancho San Diego, instead of Chula Vista via Otay Lakes Road.
- Assumption: All vehicles would evacuate simultaneously. Recent experiences, operational guidelines, and evacuation technologies like Genasys Evac indicate that targeted evacuations are the recommended, preferred method, and a more likely scenario. Genasys Evac grid are shown in Figure 3.

Scenario 1B – No Project/Existing Land Uses - Targeted; Most Probable Evacuation. This scenario depicts the time it will take to evacuate the existing land uses along Otay Lakes Road, between the City of Chula Vista boundary and SR-94, as well as the existing land uses along SR-94, north of Otay Lakes Road. This scenario covers areas B and G only.

This scenario was selected to depict a more likely evacuation of the current land uses along Otay Lakes Road and SR-94 than in Scenario 1A, though Scenario 1B is also considered a conservative analysis. In the event of an evacuation order, depending on the location of the fire, it is probable that the land uses along Otay Lakes Road would be ordered to evacuate to the closest defensible space, or towards Chula Vista. However, for a more conservative analysis, this scenario assumes that all evacuating land uses along Otay Lakes Road would evacuate towards Chula Vista.

Scenario 2A – Project + Existing Land Uses – Full Evacuation with Otay Lakes Road Widening. This scenario depicts the time it will take to evacuate all residents of the Project (Alternative I) and all existing land uses within the study area. This scenario covers areas A through G, as well as the entire Project site.

This simultaneous mass evacuation scenario has been modeled to provide a “worse-case scenario.” As further explained below in Scenario 2B, current evacuation practice is to target evacuation and avoid “mass” evacuations. This scenario was chosen as a conservative, worst-case analysis and depicts the evacuation of *all* existing land uses within the study area, as well as the Project, towards Chula Vista. The purpose of this scenario is to demonstrate the impact of Alternative I on evacuation times in the event of a mass evacuation, which as explained above is unlikely.

Scenario 2B – Project + Existing Land Uses – Targeted; Most Probable Evacuation with Otay Lakes Road Widening. In our professional judgment, we believe this scenario represents the most probable evacuation scenario in the event of fire in that it focuses on evacuating residents both from the Project site, as well as the existing land uses outside the Project site, that are most likely to be under an evacuation order in a wildfire scenario. In other words, this evacuation scenario is based not on the total number of units in the Project, but on the geographic location of units in relation to the direction from which the fire is coming. Under this scenario, 579 of the Project’s dwelling units (corresponding to 1,390 vehicles) would be evacuated. This scenario is similar to Scenario 1B (Areas B and G only) with the addition of a portion of the Project’s traffic.

The wildfire evacuation scenario selected for this analysis was based on a comprehensive approach that included a review of: fire history, including review of the Harris Fire evacuations (*California Fire Siege 2007, An Overview*); fire behavior science, including evaluation of topography, fuel types, and weather (*Dudek Fire Protection Plan for Otay Village 13*); structure hardening (or lack thereof) (*CAL FIRE State Fire Marshal’s Office Data – Fire Damage and Losses 2013 to 2020*); the evolved approach to evacuations, which is technology aided and provides a more focused or surgical approach to evacuation consistent with current practice (*2017 Lilac Fire After Action Report*); and, management



of recent San Diego County wildfires, for example, the 2017 Lilac fire (additional discussion regarding the Lilac fire evacuation is presented below).

Additionally, some perimeter units within Alternative I were targeted for evacuation in this scenario based solely on their close proximity to native fuels, as confirmed by multiple San Diego County and Southern California law enforcement and emergency operations agencies regarding their approach to wildfire evacuations in fire hardened communities (*Santee Fire Department and San Diego County Sheriff's Department 2022*). Existing communities to the east of the Project were also assumed to be evacuated in this scenario based on the comprehensive review outlined herein.

Note: At the time of preparation of this report, no other projects, i.e., no cumulative projects,¹³ were identified within the evacuation area beyond the existing uses and proposed Project. Therefore, it was not necessary to conduct a separate cumulative analysis.

Scenario 3A – Project (Partial Construction with 895 dwelling units) + Existing Land Use – Full Evacuation without Otay Lakes Road Widening. This scenario is similar to Scenario 2A with the following exceptions:

1. The Resort Village is only partially constructed with 895 dwelling units, which is 1 dwelling unit prior to the trigger of mitigation measure M-TR-13 in the Otay Ranch Resort Village 13 – Alternative H Mitigation Monitoring and Reporting Program.
2. Mitigation measure M-TR-13 stated that, “Prior to recordation of the first final map, the Project Applicants shall enter into an agreement with the County of San Diego to secure and construct, or cause to be constructed, the widening of Otay Lakes Road between the City/County Boundary and Driveway #2. Due to phasing of construction, the Project applicant shall prepare a supplemental traffic study prior to recordation of the first final map to determine the existing traffic plus EDU timing threshold, satisfactory to the County Engineer, such that the improvements are operational prior to the determination of the supplemental traffic study or construction of the 896th EDU, whichever is sooner.” Thus under this scenario, it is assumed that Otay Lakes Road, between the City/County Boundary and Driveway #2 would be a 2-lanes roadway, similar to existing condition.

Scenario 3B - Project (Partial Construction with 895 dwelling units) + Existing Land Uses – Targeted; Most Probable Evacuation without Otay Lakes Road Widening. This scenario is similar to Scenario 3A, in that assumes partial construction of the Project (i.e., 895 dwelling units) and further assumes that Otay Lakes Road, between the City/County Boundary and Driveway #2 would remain as a 2-lanes roadway. Scenario 3B also resembles Scenario 2B, in that both scenarios assume a “Targeted: Most Probable Evacuation” process in the event of a fire. Under both scenarios, dwelling units are evacuated based on their geographic location in relation to the direction from which the fire is coming. For this reason, both Scenario 2B and Scenario 3B assume that, during the modeled evacuation, a total of 579 Project units (corresponding to 1,390 vehicles) would be evacuated. Consequently, the number of total number of vehicles to be evacuated (Project + Existing) under Scenarios 2B and 3B are identical, i.e., 2,199. (See **Table 1**, below.)

Evacuation Time

Fire evacuation orders can be issued at any time, day or night, making it unpredictable when an evacuation order might actually occur. According to the “Review of California Wildfire Evacuations from

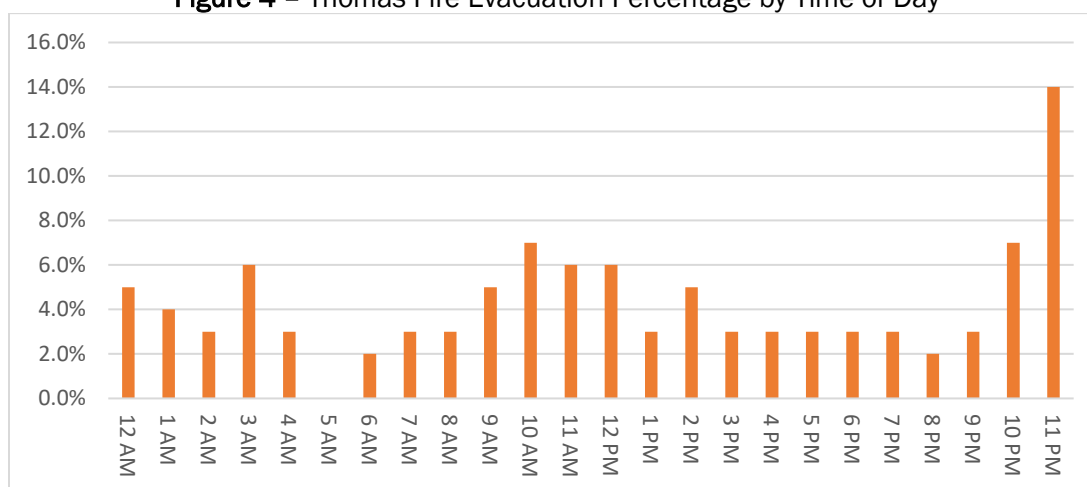
¹³ <https://www.sandiegocounty.gov/content/sdc/pds/gpabatching.html>



2017 to 2019¹⁴ report, the timing of evacuations for the Thomas Fire varied, with a significant portion occurring at night (between 9PM and 4 AM), followed by the morning, 10 AM to noon. **Figure 4** below, Hourly Percent of Evacuees – Thomas Fire, summarizes the evacuation timings for the Thomas Fire.

Given that the Project primarily involves residential land uses, and this analysis conservatively assumes a nighttime evacuation, the analysis further conservatively assumes that all residents would be at home at the time of the evacuation order, and that each household would evacuate with all of their vehicles.

Figure 4 – Thomas Fire Evacuation Percentage by Time of Day



Evacuating Vehicles

The number of vehicles evacuating under each scenario was calculated by taking the total number of residential units under each scenario and multiplying it by the average vehicle ownership (approximately 2.4 vehicles per household¹⁵ and 1 RV and 1 vehicle per RV site) in the area. Average vehicle ownership and residential unit calculations are provided in **Attachment A**. For those scenarios including existing land uses other than residential (i.e., RV spaces), the applicable number of vehicles attributable to these uses was also included. **Table 1** displays the total number of vehicles evacuating under each scenario.

Because the Project consists of primarily residential land uses, and because this analysis conservatively utilized a nighttime evacuation order, the analysis is further conservatively based on an assumption that all of the residents would be home, and that each household would take all of their vehicles during an evacuation.

¹⁴ <https://escholarship.org/uc/item/5w85z07g>

¹⁵ Average vehicle ownership is 2.4 vehicles per household for land uses within Jamul CPA and 2.43 vehicles per household for the Otay Ranch area, including the proposed Project.

Table 1 – Evacuating Vehicles

Scenario	Number of Evacuating Vehicles by Area							Project	Total
	A	B	C	D	E	F	G		
Scenario 1A – No Project/Existing Land Uses - Full Evacuation	665	63	122	347	688	425	746	0	3,056
Scenario 1B – No Project/Existing Land Uses – Targeted; Most Probable Evacuation	0	63	0	0	0	0	746	0	809
Scenario 2A – Project + Existing Land Uses – Full Evacuation with Otay Lakes Road Widening	665	63	122	347	688	425	746	6,600	9,656
Scenario 2B – Project + Existing Land Uses - Most Probable Evacuation with Otay Lakes Road Widening	0	63	0	0	0	0	746	1,390	2,199
Scenario 3A – Project (Partial Construction with 895 dwelling units) + Existing Land Use – Full Evacuation without Otay Lakes Road Widening	665	63	122	347	688	425	746	2,148	5,204
Scenario 3B – Project (Partial Construction with 895 units) + Existing Land Uses – Targeted; Most Probable Evacuation without Otay Lakes Road Widening	0	63	0	0	0	0	746	1,390	2,199

Source: CR Associates (2024), US Census Bureau (2022), Google Maps (2022).

For the analysis, all scenarios utilized a rate of two percent (2%) for the percentage of evacuating vehicles that would be heavy vehicles (trucks with trailers) for the residential land uses within the Project site. Two percent is the nationally accepted ratio of heavy vehicles to all vehicles¹⁶. As to the percentage of heavy vehicles for rural land uses (Areas A through F), the analysis utilized ten percent (10%) for these areas, based on field observations and analysis of aerial imagery. For area G, based on research of average occupancy rates at RV parks, the analysis utilizes an 80% occupancy rate at the Pio Pico RV Resort & Campground, which has 466 RV spaces.

Mass Evacuation versus Targeted Evacuation

Two mass evacuation scenarios are modeled in which all area residents would evacuate at the same time: Scenarios 1A and 2A. The mass evacuation assumption presents a worst-case scenario as all traffic would be directed to the evacuation roadways at once. Mass evacuation events can overwhelm a roadway's capacity resulting in decreasing traffic flow when a threshold traffic density is reached.

In an actual “real-life” wildfire event, a phased, or targeted, evacuation would be implemented where orders are given to evacuate based on vulnerability, location, and other factors, which reduces or prevents traffic surges on major roadways and improves traffic flow. The phased evacuation strategy also prioritizes the evacuation of residents in proximity to the immediate danger, giving emergency managers the ability to monitor the fire situation and decide in real time based on changing conditions whether to order additional evacuations as needed, or not.

2017 Lilac Fire Evacuation Success

¹⁶ https://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_599.pdf (p.5)



A relevant example of the phased evacuation approach was implemented and documented during the 2017 Lilac Fire in north San Diego County. This wildfire occurred during an extended, extreme Santa Ana weather condition with low humidity and high winds that began three days prior to the wildfire's ignition on December 7, 2017. The extended Red Flag Warning weather prepared vegetative fuels for combustion and, as a result, fast fire spread.

As detailed in the *Lilac Fire After Action Report* (County of San Diego 2018), the fire ignited adjacent to the I-15 freeway and rapidly spread westward, where it ignited mobile/manufactured homes in a mobile home park, which was the immediate focus of evacuation efforts. Responding fire and law enforcement personnel went door to door to evacuate the community members whose homes were within approximately ¼ mile from the ignition start. Despite the fire starting immediately adjacent to this vulnerable community, no lives were lost. Very quickly, the event was elevated such that uniform command was established and within 30 minutes, evacuations were targeting areas that were nearest to the active fire along W. Lilac Road to the south/southwest of the active fire area, as fire personnel anticipated fire spread progression toward these areas.

Over the course of the next hour, as fire conditions dictated, evacuations were expanded to include the area bounded by W. Lilac Road on the north, to Camino Del Rey on the south. This area was in a direct path of the projected fire spread and included large lot residential in a rural setting. Shortly thereafter, the Bonsall Elementary School, immediately southwest of this area was evacuated. Evacuation of these areas was in advance of wildfire spreading to these areas and allowed time for residents to prepare and then leave.

The Sheriff's Department and City of Oceanside issued evacuation notices via the County's mass notification system, AlertSanDiego. More than 77,000 people were affected. Evacuation orders remained in effect until the early evening of Sunday, Dec. 10. Evacuations continued in this manner, with 14 designated evacuation campaigns from the Sheriff's Department, approximately one evacuation notification campaign every 30 minutes, which sequenced evacuation areas during the time period 1:52 pm to 10:17 pm on December 7. Additionally, as the fire spread westward, Oceanside Police Department implemented three additional evacuation campaigns, starting at 5:49 pm and ending 9:19 pm on December 7, 2017. These campaigns metered evacuation areas over time, which has a positive impact on traffic congestion.

During this evacuation event, traffic was controlled by fire and law enforcement personnel at key intersections. For example, traffic was stopped on SR-76 eastbound to allow threatened populations to evacuate the area via Vista Way. Although people on SR-76 were frustrated and felt at risk, they were in fact not at risk and were later moved out of the area when priority evacuees were out of harm's way. This is the process for managing evacuations and it is aided by the County's robust resources and technology.

The resources included the Sheriff's Department "*deploying a platoon of 50 deputies, including four sergeants and a lieutenant, 24 hours a day for the first several days of the incident (2017 Lilac Fire After Action Report, page 20). Sheriff's deputies prepare for wildfires with mandatory annual training, which includes fire behavior, evacuations, and emergency operations*". Additionally, the Probation Department "*assigned 116 Probation officers and non-sworn staff, playing a significant role in security and public service at the incident command post and first responder staging areas*". (2017 Lilac Fire After Action Report, page 21)

Additionally, the firefight was aided substantially by the locally available firefighting aircraft and well-equipped and trained first responders. Eleven fixed wing aircraft and 22 helicopters flew during the fire. Since 2003, the County's Board of Supervisors has spent more than \$460 million on local



firefighting resources – helicopters, engines, response personnel, and communications infrastructure and technological advances that are used to attack wildfires.

The county took precautionary steps of pre-positioning resources and providing emergency messaging about the weather conditions and potential for wildfires prior to any fire ignitions associated with the Red Flag Warning event. These efforts are now commonplace and confirm the cautious and prepared approach San Diego County employs to ensure successful evacuations. Evacuations will only be ordered if a fire is actively occurring, and the IC determines there is a threat to life. No evacuations will be initiated solely due to red flag days.

Otay Ranch Resort Village 13 Project Specific Analysis

The analysis presented here includes targeted evacuation scenarios (Scenario 1B and 2B), like those implemented during the 2017 Lilac Fire, as the typical evacuation conducted in San Diego County in which those residents closest to the urban/wildland interface and/or those determined to be most at risk would be evacuated. Based on current evacuation practice, this targeted scenario is considered to evaluate a more realistic scenario as compared to a mass evacuation.

Extreme Wildfire Event

The evacuation analysis presented here utilizes a Santa Ana-wind driven fire from the north and/or east of the study area and traveling in a westerly and southerly direction. This fire condition is the one most likely to require a large-scale evacuation, and the one that would create the most risk to property and humans. Traffic evacuating from both the Project site and nearby developments are anticipated to use Otay Lakes Road and SR-94 under a Santa Ana-wind driven fire scenario.

In California, wildfire-related large-scale evacuations are almost exclusively associated with wildfires that occur on extreme fire weather days, also known as “Red Flag Warning” days. These days occur when relative humidity drops to low levels and strong winds from the north/northeast are sustained. With climate change, periods in which such wildfires occur may increase. During Red Flag Warning days, vegetation is more likely to ignite and fire spread is more difficult to control. In San Diego County, these extreme weather days typically occur during limited periods in the late summer, fall and, occasionally, in the spring, but may occur at other times on a less frequent basis. Currently, it is not common to experience more than 15 to 20 Red Flag Warning days in a typical year. Wildfires that occur during these periods of extreme weather are driven by winds –referred to as “Santa Ana” winds – that originate in the north or east and blow toward the south or west. Fires driven by these winds move very quickly, making them difficult to control. In response to such fires, emergency managers typically activate pre-planned evacuation triggers that require down-wind communities to sequentially be notified to evacuate and move to nearby urbanized areas prior to the fire’s encroachment.

Wildfires that occur on non-extreme weather days behave in a much less aggressive manner and pose fewer dangers to life and property because they include less aggressive fire behavior and are easier to control. Terrain and fuel are typically the wildfire drivers. During these non-extreme weather days, vegetation is much more difficult to ignite and does not spread fire as rapidly. In these situations, firefighters have a very high success rate of controlling fires and keeping them under 10 acres. CALFIRE estimates that 90% of all vegetation fires occur during normal, onshore weather conditions and that such fires account for only 10% of the land area burned. Conversely, the 10% of wildfires that occur during extreme fire weather account for 90% of the land area burned. This data highlights that the most dangerous fire conditions are those related to a fire that moves rapidly due to high winds



and low humidity, whereas under normal conditions fires are likely to be controlled with no evacuation or possibly limited, focused evacuations.

While it is possible that a fire driven by onshore wind (i.e., wind from the west) could require evacuation of the Project site, such an event would be highly unusual. Moreover, due to the reduced fire behavior during normal weather periods, the evacuation would not be expected to be a large-scale evacuation of large areas. Instead, most of the Project area population would be anticipated to remain at their locations and within their communities, with a more targeted evacuation being ordered, if any.

Primary Evacuation Routes

The analysis presented here selects a reasonable evacuation route for the extreme weather scenario and a fire traveling in a southwesterly direction. Detailed evacuation analysis information is provided in **Attachment B**.

No contraflow lanes were utilized to provide additional evacuation capacity under the analysis. Contraflow or lane reversal involves reversing the usual flow of one or more lanes to serve additional outbound evacuation traffic, increasing outbound traffic capacity to move people away from the wildfire or other hazard. Such a strategy can be used to eliminate bottlenecks in communities with road geometrics that prevent efficient evacuations or to otherwise hasten and facilitate traffic flow. However, among the considerations in planning emergency contraflow are whether sufficient traffic control officers are available, potential negative impact on responding fire apparatus, access management, merging, exiting, safety concerns, and labor requirements.¹⁷ None of the evacuation scenarios analyzed here assumed contraflow traffic flow would be implemented; instead, two-way travel flow was utilized, with evacuating vehicles traveling outbound to the Safe Zone, and inbound lanes assumed to be reserved for use by first responders, law enforcement, and fire fighters. Based on recent practice, it is reasonably assumed that first responders or law enforcement will direct traffic at all major intersections during the evacuation process. Should evacuation managers determine that contraflow is preferred or necessary in the context of an actual wildfire event, contraflow remains a tool in the evacuation manager's toolbox that would increase evacuation capacity and decrease evacuation times.

Safe Zone

Based on Dudek's review of the County's fire history¹⁸ within the past 10 years, fires have generally not advanced into newer urbanized areas, particularly master planned communities with funded Homeowner's Associations. Recent fire and building code updates, lessons learned, updated Emergency Operation Planning, and firefighting resources have resulted in ignition resistant development and a more robust emergency action plan¹⁹. Densely urbanized, irrigated, and hardscaped areas are highly ignition resistant and interrupt fire spread patterns and provide defensible landscape features for firefighter tactical control measures. For these reasons, it is assumed that evacuees would be directed into the City of Chula Vista or Rancho San Diego area, as appropriate. Evacuees are considered to have reached a safe area once they travel past Lake Crest Drive or the intersection of Campo Road and Jamacha Road.

¹⁷ Dudek July 2014. "Wildland Fire Evacuation Procedures Analysis" for City of Santa Barbara, California, page 65.

¹⁸ Cedar Fire 2003 After Action Report. San Diego Fire and Rescue Department.

¹⁹ This is particularly notable when compared to historical fires that have penetrated semi-urban areas, such as the 2003 Cedar Fire, where wildfires spread through unmanaged vegetation to reach communities like Scripps Ranch and Tierrasanta where buildings did not include all of the latest ignition resistant construction features.

Road Network Assumptions

The Existing Conditions Scenarios 1 & 2 are based on the current transportation network. The scenarios that include the Project, Alternative I (Scenarios 3 and 4), each include the widening of Otay Lakes Road between Lake Crest Drive and proposed Project Driveway #2 from a 2-lane roadway to a 4-lane Major Arterial. The widening of Otay Lakes Road would be implemented as part of the Alternative I and, therefore, it is reasonable to include the improvements in all scenarios that include full buildout Alternative I (Scenario 2A and Scenario 2B).

Analysis Methodology

The analysis methodology employed in this report follows the AG Guidance and is informed by an extensive review of wildfire research papers and guidelines. A list of references is provided at the end of this memo. To analyze the evacuation events, CR Associates (CRA) conducted simulations using *Vissim*, a microscopic, multimodal traffic flow modeling software used to simulate different traffic conditions. In *Vissim* simulations, roadway capacity is accounted for and each vehicle in the traffic system is individually tracked through the model, and comprehensive measures of effectiveness, such as average vehicle speed and queueing, are collected on every vehicle during each 0.1-second of the simulation. This software enables drivers' behaviors during an evacuation to be replicated. A total of 20 simulations were conducted to yield a reasonable sample size to determine the performance of the study area roadways and impacts during evacuation scenarios. As previously noted, to be conservative, CRA applied worst-case assumptions, including a nighttime evacuation and a scenario in which all vehicles belonging to the households in the study area would be used in the evacuation, instead of the necessary number of vehicles needed to evacuate the impacted population. Detailed evacuation analysis information is provided in **Attachment B**.

Evacuation Routes

The evacuation areas under each scenario are anticipated to utilize the following facilities as evacuation routes:

Otay Lakes Road – Otay Lakes Road is a two-lane roadway within the County of San Diego. It is classified as a four-lane Major Road with Intermittent Turn Lane (4.1B) between the County/City boundary and the proposed Project Driveway #2. However, the Project proposes to reclassify this segment from a 4.1B to a 4.2A Boulevard with Raised Median. Therefore, this facility is being analyzed as a 4.2A from this point forward. The widening of Otay Lakes Road is included only under the “with Alternative I” scenarios, i.e. Scenarios 3 and 4.

SR-94 – Within the study area, SR-94 is a 2-lane State Highway between Lyons Valley Road and the Community of Tecate. No improvements are planned by Caltrans to the portions of SR-94 located within the study area.

Honey Springs Road – Honey Springs Road is a 2-lane rural roadway without a posted speed limit. No improvements are planned by the County of San Diego for the roadway segment within the study area.

Lyons Valley Road – Lyons Valley Road is a 2-lane rural roadway without a posted speed limit. No improvements are planned by the County of San Diego for the roadway segment within the study area.

Deerhorn Valley Road – Deerhorn Valley Road is a 2-lane rural roadway without a posted speed limit. No improvements are planned by the County of San Diego for the roadway segment within the study area.



Mother Grundy Truck Trail – Mother Grundy Truck Trail is a rural unpaved roadway without a posted speed limit. No improvements are planned by the County of San Diego for the roadway segment within the study area.

Barret Lake Road – Barret Lake Road is a 2-lane rural roadway without a posted speed limit. No improvements are planned by the County of San Diego for the roadway segment within the study area.

Evacuation Analysis & Results

Based on the analysis methodology described above, **Table 2**, below, reflects the evacuation times for each scenario depicted on an area by area basis (Areas A through G), along with the Project's evacuation times and the Project's effect on evacuation times for Areas A through G. The evacuation time for each area is calculated based on the arrival of the last vehicle from that area at the City of Chula Vista. The duration of evacuation times is influenced by several factors:

Number of Vehicles: The more vehicles in an area, the later the last one arrives at Chula Vista. As all vehicles from various areas start evacuating simultaneously, they vie for space on evacuation routes, leading to delays, particularly in areas with a high vehicle count.

Shared Evacuation Route and Conflict Points: Congestion occurs at roadways and intersections where vehicles from different areas converge. For instance, Honey Spring Road, between SR-94 and Mother Grundy Truck Trail, serves as a common evacuation route for areas A, E, and F. These areas not only have a higher number of vehicles but also share this critical roadway, resulting in significant delays as vehicles jostle to enter the route.

Vehicle Right-of-Way: During an evacuation, vehicles already on an evacuation route have the right-of-way. This practice affects areas like Area G, where evacuation traffic must pass by and vehicles attempting to exit from Pio Pico RV Resort & Campground face challenges merging into the flow. Vehicles from Area G must compete for openings in traffic, which can extend their evacuation time significantly.

The summaries for each study scenario, as presented in detail in Table 2, are as follows:

- **Scenario 1A – No Project/Existing Land Uses (Full Evacuation):** Evacuation times for Areas A through G range from 51 minutes to 2 hours and 22 minutes depending on the specific community. Thus, full evacuation of Areas A through G would take 2 hours and 22 minutes. In this scenario, Area B, with 63 evacuation vehicles, has an evacuation time of 51 minutes, while Area C, with 122 vehicles, takes 54 minutes to evacuate. Area D, having 347 vehicles, has an evacuation time of 62 minutes. Areas A, E, F, and G each have evacuation times exceeding two hours. Specifically, Area A with 665 vehicles, Area E with 688 vehicles, and Area F with 425 vehicles face longer evacuation times not only because they have more vehicles but also because they are farther from the City of Chula Vista and share Honey Springs Road as their evacuation route. Area G, which has the highest number of evacuating vehicles, also experiences delays as it struggles for the right-of-way to enter onto Otay Lakes Road.
- **Scenario 1B – No Project/Existing Land Uses (Targeted; Most Probable Evacuation):** In this scenario, Area B, with 63 vehicles, evacuates in 38 minutes, while Area G, with 746 vehicles, takes 1 hour and 1 minute. As no other areas are considered in this scenario, the evacuation routes are less congested, leading to reduced evacuation times for both areas. Therefore, a targeted evacuation involving only Areas B and G would be completed in 1 hour and 1 minute.



- Scenario 2A – Project + Existing Land Uses (Full Evacuation) with Otay Lakes Road Widening: Evacuation times would range from 52 minutes to 2 hours and 25 minutes for Areas A through G, with the Project taking 3 hours and 25 minutes. In this scenario, Otay Lakes Road, between Weueste Road and Project's Driveway #2, would be widened as part of the Project from a two-lane to a four-lane roadway. Despite the additional lanes, vehicles already on Otay Lakes Road (evacuating from Areas A through G) would have the right-of-way effectively reducing the evacuation efficiency of the Project site. Coupled with potential upstream congestion on Honey Springs Road, under this scenario the Project is expected to extend evacuation times for Areas A through G by one to three minutes, as shown on Table 2, as evacuating vehicles from the Project site slowly enter Otay Lakes Road. Thus, because the traffic evacuating from the Project must vie for right-of-way to access Otay Lakes Road, its evacuation time of 3 hours and 25 minutes is longer when compared to Areas A through G.
- Scenario 2B – Project + Existing Land Uses (Targeted; Most Probable Evacuation) with Otay Lakes Road Widening: As shown on Table 2, under this scenario evacuation times for Areas A and G would be 39 minutes and 1 hour 1 minute, respectively, while the evacuation time for the Project would be one hour. As to the Project's effect on evacuation time for Areas A and G, evacuating Project traffic would result in an increase of 1 minute for Area B. As previously noted, in this scenario, Otay Lakes Road, between Weueste Road and Project's Driveway #2, would be widened from a two-lane to a four-lane roadway as part of the Project improvements.
- Scenario 3A – Project (Partial Construction with 895 dwelling units) + Existing Land Use – Full Evacuation without Otay Lakes Road Widening: As shown in Table 2, the evacuation times range from 2 hours and 9 minutes in Area B to 3 hours and 58 minutes in Area G, which has the maximum evacuation time. The Project's effect on evacuation times increases by 1 hour and 18 minutes to 1 hour and 43 minutes across the different areas, with the highest increase occurred in area G, with 1 hour and 43 minutes.
- Scenario 3B – Project (Partial Construction with 895 dwelling units) + Existing Land Uses – Targeted; Most Probable Evacuation without Otay Lakes Road Widening: The evacuation times are 1 hour and 22 minutes for Area B and 1 hour and 53 minutes for Area G, which is the maximum evacuation time. Compared to a similar targeted evacuation scenario without the Project, the evacuation time in Area B increases by 43 minutes, while Area G sees an increase of 51 minutes.

Table 2 – Evacuation Time Summary – All Scenarios

Scenario	# Vehicles	Evacuation Time (Hours: Minutes)							Max Evacuation Time (Area A-G)	Project
		A	B	C	D	E	F	G		
Scenario 1A – No Project/Existing Land Uses - Full Evacuation	3,056	2:22	0:51	0:54	1:02	2:13	2:04	2:15	2:22	N/A
Scenario 1B – No Project/Existing Land Uses - Targeted; Most Probable Evacuation	809	N/A	0:38	N/A	N/A	N/A	N/A	1:01	1:01	N/A
Scenario 2A – Project + Existing Land Uses – Full Evacuation with Otay Lakes Road Widening	9,656	2:25	0:52	0:56	1:04	2:16	2:05	2:18	2:25	3:25
Project effect on evacuation time (Scenario 2A vs. Scenario 1A)	N/A	0:02	0:01	0:01	0:01	0:02	0:01	0:03	0:03	N/A
Scenario 2B – Project + Existing Land Uses - Most Probable Evacuation with Otay Lakes Road Widening	2,199	N/A	0:39	N/A	N/A	N/A	N/A	1:01	1:01	1:00
Project effect on evacuation time (Scenario 2B vs. Scenario 1B)	N/A	N/A	0:01	N/A	N/A	N/A	N/A	0:00	0:01	N/A
Scenario 3A – Project (Partial Construction with 895 dwelling units) + Existing Land Use – Full Evacuation without Widening Otay Lakes Road	5,204	3:44	2:09	2:19	2:34	3:35	3:22	3:58	3:58	2:36
Project effect on evacuation time (Scenario 3A vs. Scenario 1A)	N/A	1:21	1:18	1:24	1:31	1:22	1:18	1:43	1:43	2:36
Scenario 3B – Project (Partial Construction with 895 dwelling units) + Existing Land Uses - Targeted; Most Probable Evacuation without Otay Lakes Road Widening.	2,199	N/A	1:22	N/A	N/A	N/A	N/A	1:53	1:53	1:40
Project effect on evacuation time (Scenario 3B vs. Scenario 1B)	N/A	N/A	0:43	N/A	N/A	N/A	N/A	0:51	0:51	1:40

Source: CR Associates (2024).

As illustrated by the above information, the proposed Project, Alternative I, would have a relatively limited effect on evacuation times, increasing those times by no more than 3 minutes, depending on the individual scenario. Specifically, under the Most Probable Evacuation scenario, Scenario 2B, which includes targeted existing uses along with targeted Project residences, the evacuation time in Area B would increase by 1 minute due to the Project, while the evacuation time in Area G would not increase. Under Scenario 2A, a worse case and unlikely scenario in that a full evacuation of all land uses likely would not be ordered, evacuation time in Areas A – G would increase by a maximum of 3 minutes due to the Project.

Additionally, Alternative I provide several features that would enhance orderly and safe evacuation, but which are not reflected in the average evacuation time results above. These features include evacuation preparedness, substantial fuel modification zones within the Project site as well as fuel modification along Project roadways, structural hardening of homes, a public safety site, a new fire station located on the Project site, and temporary areas for safe refuge. These evacuation enhancements would reduce the potential for evacuation friction or interruption; however, such enhancements cannot be well depicted by the traffic evacuation model. Other model limitations are discussed below.

Additionally, because the development would provide a sizable ignition resistant landscape that emulates urbanized areas that have halted wildfire spread in nearby Chula Vista, emergency managers may halt evacuations of Alternative I at any point during an evacuation event to move traffic that is of higher priority. Evacuations throughout San Diego County operate on a priority basis, with those populations that are of greatest risk or highest exposure considered the highest priority. Downstream traffic flow is managed to move these populations first and Alternative I would provide an opportunity to protect the resident population while prioritizing movement of populations that are at greater risk, reducing the evacuation times for those populations, possibly substantially.

Analysis and Conclusion

Neither CEQA, nor the County has adopted numerical time standards for determining whether an evacuation timeframe is appropriate. Public safety, not time, is generally the guiding consideration for evaluating impacts related to emergency evacuation. The County considers a project's impact on evacuation significant if the project will significantly impair or physically interfere with implementation of an adopted emergency response or evacuation plan; or if the project will expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

In any populated area, safely undertaking large-scale evacuations may take several hours or more and require moving people long distances to designated areas. Further, evacuations are fluid and timeframes may vary widely depending on numerous factors, including, among other things, the number of vehicles evacuating, the road capacity to accommodate those vehicles, residents' awareness and preparedness, evacuation messaging and direction, and on-site law enforcement control. The "Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act"²⁰ guidance from the California Office of the Attorney General suggests that jurisdictions set benchmarks of significance based on past successful evacuations or on those from communities in similar situations.

²⁰ <https://oag.ca.gov/system/files/attachments/press-docs/2022.10.10%20-%20Wildfire%20Guidance.pdf>



A recent study titled "Review of California Wildfire Evacuation from 2017 to 2019"²¹ provides more insights on the topic. This research involved interviews with 553 individuals (297 evacuees affected by various fires) including the Creek Fire, Rye Fire, Skirball Fire, and Thomas Fire. The study aimed to understand the decision-making processes of these individuals during the fires, such as whether to evacuate or stay, when to leave, the paths taken, chosen shelters, destinations, and modes of transportation. According to this research, the time it took for evacuations ranged from under 30 minutes to over 10 hours. From this dataset²², the average evacuation time for the Creek Fire was found to be 3 hours and 40 minutes, involving 115,000 people²³. For the Thomas Fire, the average time was 4 hours and 25 minutes, impacting 104,607 individuals.

As previously mentioned, there is no specific impact threshold for an acceptable increase in evacuation time, as evacuation times can vary significantly due to multiple factors, resulting in numerous potential scenarios that are not feasible to model comprehensively. However, the San Diego County Operational Area Evacuation and Repopulation Policy #8-B, along with many other agencies across California, utilizes the following definitions for evacuation orders and warnings:

- *Evacuation Order: This involves moving community members out of a designated area due to an immediate threat to life and property from an emergency incident. An evacuation order should be issued when there is a potential or actual threat to civilian life within 1 to 2 hours, or when the Incident Commander (IC) deems it necessary to protect civilians.*
- *Evacuation Warning: This alerts community members in a designated area of a potential threat to life and property from an emergency incident. An evacuation warning may be issued when the potential or actual threat to civilian life is more than 2 hours away.*

While these definitions do not establish specific evacuation thresholds, they provide essential guidelines for how the Incident Commander may issue an evacuation order or warning.

California fire and law enforcement agencies have integrated training, experience, and technology to assist in successful evacuations, which focus on moving persons at risk to safer areas before a wildfire encroaches on a populated area. Timeframes for moving people vary by site specifics, population, road capacities and other factors and there is no one threshold that would be appropriate to all locations. There are no established thresholds for evacuation times for this Project or at the time of this plan's preparation, for any California community, to the knowledge of the authors. This is primarily because every location and fire scenario are unique. While it may take one community 20 minutes to evacuate safely, it is not a valid assumption to consider a 3-hour evacuation for another community as unsafe. The 3-hour evacuation can be very safe while the 20-minute evacuation may be unsafe due to the conditions and exposures along the evacuation routes.

The County of San Diego has historically had an extremely high success rate for safely evacuating large numbers of people and doing so in a managed and strategic way using available technological innovations. Safely undertaking large-scale evacuations may take several hours or more and require moving people long distances to designated areas. Further, evacuations are fluid and timeframes may vary widely depending on numerous factors, including, among other things, the number of vehicles evacuating, the road capacity to accommodate those vehicles, residents' awareness and preparedness, evacuation messaging and direction, and on-site law enforcement control. These other variables can sometime affect the outcome of an evacuation order, thus even when all the technologies and strategies for evacuation are employed, there are still no guarantees that deaths will not occur.

²¹ <https://escholarship.org/uc/item/5w85z07g>

²² [2018 Carr Wildfire Evacuation Survey Data | Zenodo](#)

²³ <https://abc7.com/sylmar-brush-fire-creek-kagel-canyon/2740550/>



Notwithstanding evacuation challenges and variables, the success rate in the County of San Diego in safely managing both mass and targeted evacuations is nearly 100% safe evacuations based on research showing there were no fire-caused deaths during an evacuation. Technological advancements and improved evacuation strategies learned from prior wildfire evacuation events have resulted in a system that is many times more capable of managing evacuations. With the technology in use today in the County, evacuations are more strategic and surgical than in the past, evacuating smaller areas at highest risk and phasing evacuation traffic so that it flows more evenly and minimizes the surges that may slow an evacuation. Mass evacuation scenarios where large populations are all directed to leave simultaneously, resulting in traffic delays, are thereby avoided, and those populations most at risk populations are able to safely evacuate.

Based on the evacuation simulations above, evacuation traffic generated by Alternative I would not significantly increase the average evacuation travel time or result in unsafe evacuation timeframes; as previously noted, under the scenarios analyzed here, Alternative I would increase evacuation times by less than five minutes. Moreover, evacuation flow would be able to be effectively managed.

Alternative I would also provide emergency managers the alternative option of recommending Project residents to temporarily seek refuge on-site in fire-resistant buildings, temporary refuge areas, or within the wide, converted landscapes and hardscapes that would not readily facilitate wildfire spread. This would provide emergency managers with a safer alternative to risking a late evacuation. By contrast, the examples of Southern California evacuations that have included loss of life have been the result of residents who did not evacuate when directed, and then attempted a late evacuation with travel through long distances of exposed travel ways as wildfire was overtaking the area. These examples occurred in fire environments that were more aggressive and included less maintenance than would occur at the Project area.²⁴

Furthermore, Alternative I would not cut off or otherwise modify existing evacuation routes. It would, instead, implement certain roadway improvements that would improve evacuation, as discussed under the “Assumptions” section above. In addition, Alternative I would continue to provide two points of ingress/egress from the development.

The information presented here will be provided to emergency managers for use in pre-planning scenarios to better inform the field decisions made pursuant to adopted Emergency Operations Plans. Emergency personnel who issue an evacuation order may take into account these time estimates in determining when and where to issue evacuation orders. In a real evacuation scenario, emergency managers may use alternative actions/options to further expedite evacuation. Such actions may include providing additional lead time in issuing evacuation orders, providing alternative signal control at downstream intersections, utilizing additional off-site routes or directing traffic to roadways with additional capacity, implementing contra-flow lanes, or considering the possibility of a delayed evacuation where parts of the population could be directed to remain on-site until the fire burns out in the sparse fuels around the evacuation route. These options require “in the field” determinations of when evacuations are needed and how they are phased to maximize efficiency. Overall, safe evacuation of Alternative I and the surrounding community is possible under all modeled scenarios.

Limitations

In coordination with fire professionals at Dudek, CRA has presented here a conservative analysis simulating evacuation during an extreme wildfire event. As previously noted, the analysis presents the

²⁴ San Diego County Sheriff's Department, Captain Dave Brown during public testimony for the Harmony Grove Village South, Newland Sierra, Otay Ranch Villages 13 and 14 projects – various dates from 2017 to 2019.



total time to complete evacuation of all evacuees under the various scenarios, and not the average travel time for a single evacuee.

However, as discussed above, wildfires are variable events. The underlying planning principle for fire preparedness, given the dynamic nature of a fire, is to demonstrate the availability of multiple route alternatives and response strategies to permit emergency professionals to manage their response according to the specific circumstances. The Project area provides route and response alternatives too numerous to be considered in this model. Emergency responders will coordinate the safest possible evacuation based on the dynamic circumstances of the actual event, including the appropriate phasing of the evacuation, and utilization of the most appropriate ingress and egress routes for area residents and emergency responders.

The scope of route alternatives and response strategies available to emergency professionals to manage a potential fire in the County cannot be and should not be evaluated using this evacuation analysis alone. However, a more comprehensive view of Alternative I's fire safety is gained by understanding this memorandum, the Otay Ranch Resort Village 13 Project (Alternative H) Final EIR, the Fire Protection Plan, the Wildland Fire Evacuation Program, and the standard protocols and "in-the-field" decision making of emergency responders as detailed in the County Emergency Operations Plan.

The travel time analysis presented here calculated a reasonable vehicle travel time estimate based on professional judgment made by CRA, Dudek, and fire operations experts with experience participating in evacuations in San Diego County.

The net result of changing the variables selected could yield an average evacuation travel time shorter or longer than the results detailed in the analysis. Many factors can shorten or lengthen the vehicle time from the results shown herein. For example:

1. Changing the possible evacuation routes selected would affect the results. For instance, utilizing roads for ingress and/or egress that are not utilized in this analysis could shorten or lengthen vehicle travel times relative to the results shown herein.
2. Increasing or decreasing the number of path permutations and percentage of the population utilizing each route that leads out of the immediate area could shorten or lengthen vehicle travel time relative to the results shown herein.
3. Emergency professionals electing to reserve certain travel lanes for emergency vehicle ingress for periods of time could affect the travel time relative to the results shown herein.
4. Assuming evacuees utilize fewer or more vehicles to evacuate from their homes relative to the vehicle utilization rate selected in the analysis would shorten or lengthen vehicle travel time relative to the results shown herein.
5. Changing the mix of vehicle trips allocated to each evacuation route could shorten or lengthen vehicle travel time relative to the results shown herein.
6. Assuming different road condition adjustment factors could shorten or lengthen the vehicle travel time relative to the results shown herein.
7. Assuming fewer people are at home when the evacuation notice is given would reduce the number of vehicle trips and shorten vehicle travel time relative to the results shown herein. For instance, an evacuation during daytime hours could result in fewer outbound trips than assumed in this analysis



8. Assuming some portion of vehicle trips are made in advance of the evacuation notice would reduce the number of vehicle trips relative to the results shown herein.

9. Assuming emergency professionals elect to implement contraflow on certain roadways to open up additional lanes for emergency evacuation egress could reduce the travel time results shown herein.

This evacuation time analysis is necessarily limited in scope given the numerous variables inherent in a wildfire and evacuation event. However, as discussed above, it is not anticipated that Alternative I will significantly impact the time it takes to conduct an evacuation of the Project site or existing surrounding communities based on the evacuation times calculated here and other qualitative considerations.

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Attachment A
Evacuating Vehicles Calculation

Area	ID	Total Household	Number of Household by Vehicle Ownership						Average Vehicle per Household
			0	1	2	3	4	5	
Otay Ranch	60730134191	2087	45	268	967	499	152	156	2.44
Otay Ranch	60730133141	5162	57	685	2670	919	405	426	2.43
Project Average Vehicle Ownership per Household									2.43
Jamul	Jamul CPD	1889	0	245	797	453	220	174	2.6
Jamul	60730213031	733	24	160	426	76	15	32	2.0
Jamul	60730213022	891	14	136	358	166	160	57	2.6
Study Area Average Vehicle Ownership per Household, not including RV									2.39

Souce: US Census, CRA Aerial Images Verification.

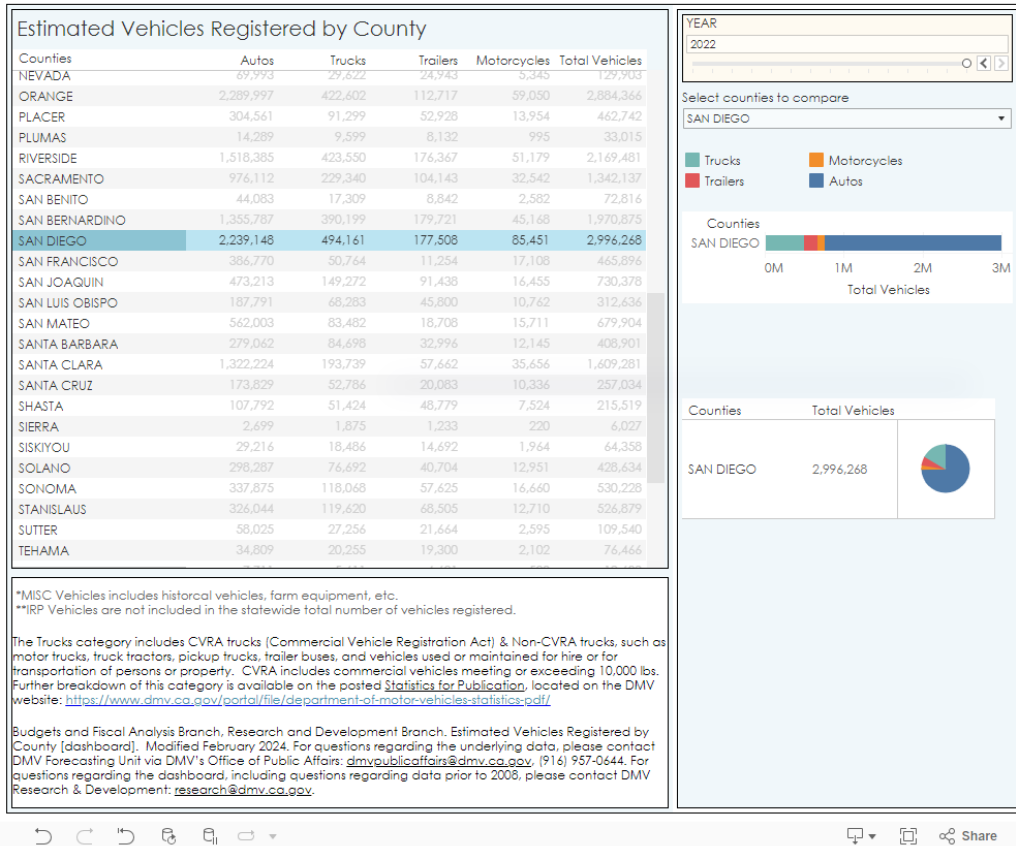
Statistic Comparison between US Census and DMV Registration

To validate the assumptions regarding evacuating vehicles aligning with potential demand, the Project team compared the obtained number from the methodology with the State of California vehicle registration statistics. This comparison revealed a mere 2% variance in the total count, affirming the validity of the approach.

	San Diego County, California		
Label	Estimate		
Total:	1172343		
Owner occupied:	639298		
No vehicle available	14616	0	0
1 vehicle available	141318	1	141318
2 vehicles available	279840	2	559680
3 vehicles available	124442	3	373326
4 vehicles available	51109	4	204436
5 or more vehicles available	27973	5	139865
Renter occupied:	533045		0
No vehicle available	45316	0	0
1 vehicle available	217660	1	217660
2 vehicles available	191749	2	383498
3 vehicles available	54149	3	162447
4 vehicles available	15479	4	61916
5 or more vehicles available	8692	5	43460
		Census Estimate	2287606
		CA DMV	2239148
		Different	-48458
		% Different	-2.12%

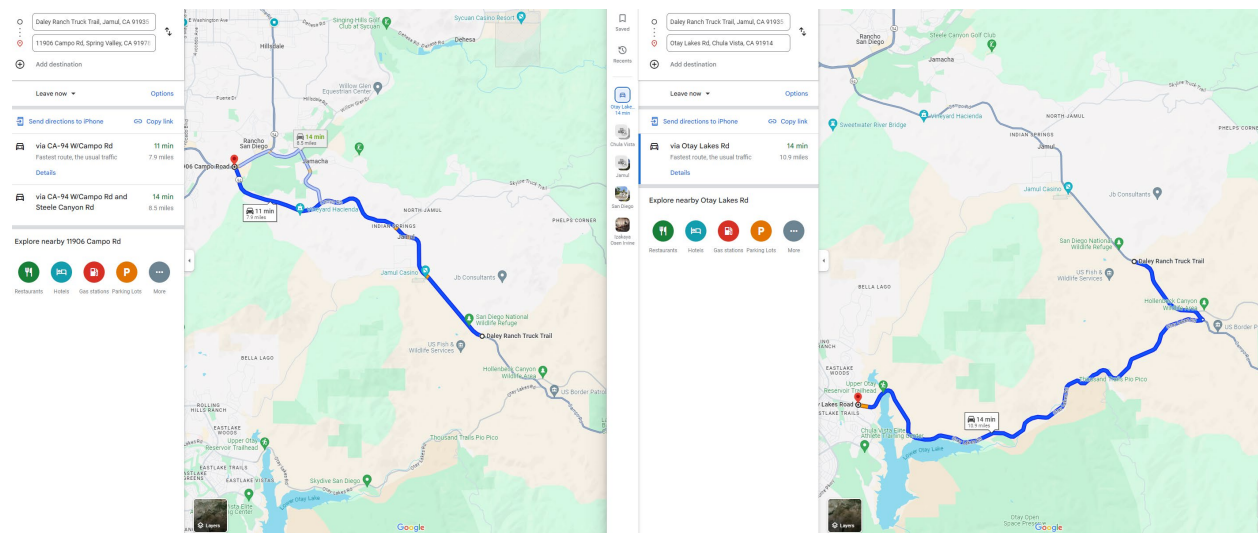
Source: US Census

Vehicles Registered By County



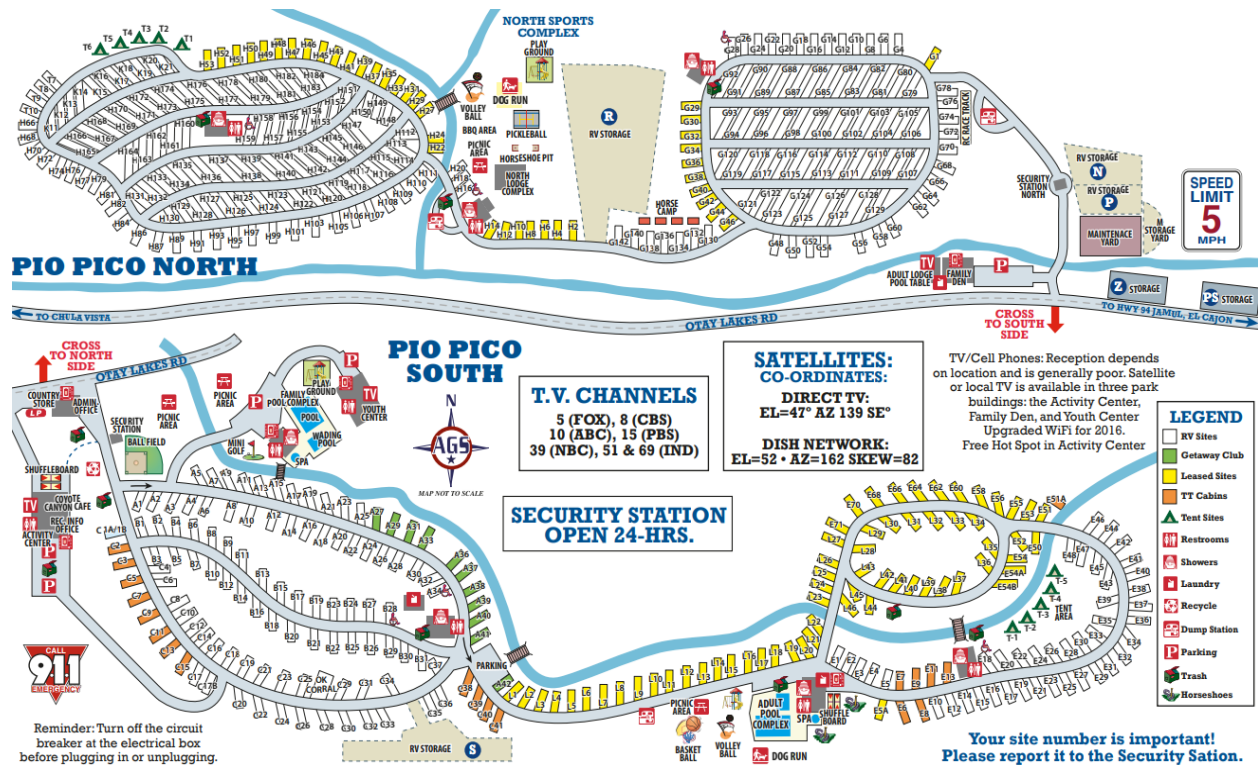
Source: California DMV

Driving distance along Otay Lakes Road from Google Map.



Otay Ranch Resort Village 13 Alternative I Fire Evacuation Analysis
 Technical Memorandum
 CONFIDENTIAL/INADMISSIBLE FOR ANY PURPOSE

Pio Pico RV Site



Pio Pico North		Pio Pico South	
ID	Sites	ID	Sites
G	98	A	41
H	124	B	31
K	11	C	42
T	6	D	0
Total	239	E	67
		L	46
		Total	227

EXHIBIT G

Evacuating Vehicles Calculation by Area

Area	A	B	C	D	E	F	G	Project	Probable Evacuation
Land Use Type / Amount									
Residential	263	25	47	131	275	165	0	2750	579
Veh. Ownership Rate	2.5	2.5	2.5	2.5	2.5	2.5	0	2.4	2.4
Total Residential Evacuating Veh.	658	63	118	328	688	413	0	6600	1390
Non-Residential									
RV (Total Evacuating Veh @ 80% Occupancy)							373		
RV (Additional Vehicle - Non-RV)							373		
Non-Residential (Field Counts)									
The Bradford Ranch									
VecchieOso Vineyard						12			
Deerhorn Valley Vineyards	7								
Dulzura Community Center				19					
Dulzura Vineyard and Winery				0					
Valentina Vineyards and Farm			4						
A Touch of Country Events									
Total Evacuating Vehicles	665	63	122	347	688	425	746	6600	1,390



Attachment B
Evacuation Analysis Worksheets

Scenario 1A – No Project/Existing Land Uses - Full Evacuation							
Start Zone	Start Gate	Start Time	End Zone	End Gate	End Time	Elapse Seconds	Elapse Time
Resort Village 1	1	0	Resort Exit Chula	7	0	0	0:00
A	18	1800	AEX	23	10365.5	8565.5	2:22
B	19	1800	BEX	24	4870.6	3070.6	0:51
C	20	1800	CEX	25	5089.5	3289.5	0:54
D	21	1800	DEX	26	5538.65	3738.65	1:02
E	22	1800	EEX	27	9825.75	8025.75	2:13
F	29	1800	FEX	28	9263.55	7463.55	2:04
G1	3	1800	GEX	8	9907.25	8107.25	2:15
G2	4	1800	GEX	8	9907.25	8107.25	2:15

Scenario 1B – No Project/Existing Land Uses – Targeted; Most Probable Evacuation							
Start Zone	Start Gate	Start Time	End Zone	End Gate	End Time	Elapse Seconds	Elapse Time
Resort Village 1	1	0	Resort Exit Chula	7	0	0	0:00
A	18	0	AEX	23	0	0	0:00
B	19	1800	BEX	24	4113.6	2313.6	0:38
C	20	0	CEX	25	0	0	0:00
D	21	0	DEX	26	0	0	0:00
E	22	0	EEX	27	0	0	0:00
F	29	0	FEX	28	0	0	0:00
G1	3	1800	GEX	8	5492.05	3692.05	1:01
G2	4	1800	GEX	8	5492.05	3692.05	1:01

Scenario 2A – Project + Existing Land Uses – Full Evacuation with Otay Lakes Road Widening

Start Zone	Start Gate	Start Time	End Zone	End Gate	End Time	Elapse Seconds	Elapse Time
Resort Village 1	1	1800	Resort Exit Chula	7	14143.8	12343.8	3:25
A	18	1800	AEX	23	10508.6	8708.6	2:25
B	19	1800	BEX	24	4960.55	3160.55	0:52
C	20	1800	CEX	25	5187.95	3387.95	0:56
D	21	1800	DEX	26	5641.65	3841.65	1:04
E	22	1800	EEX	27	9971.95	8171.95	2:16
F	29	1800	FEX	28	9325.7	7525.7	2:05
G1	3	1800	GEX	8	10101.6	8301.6	2:18
G2	4	1800	GEX	8	10101.6	8301.6	2:18

Scenario 2B – Project + Existing Land Uses - Most Probable Evacuation with Otay Lakes Road Widening

Start Zone	Start Gate	Start Time	End Zone	End Gate	End Time	Elapse Seconds	Elapse Time
Resort Village 1	1	1800	Resort Exit Chula	7	5410.15	3610.15	1:00
A	18	0	AEX	23	0	0	0:00
B	19	1800	BEX	24	4181	2381	0:39
C	20	0	CEX	25	0	0	0:00
D	21	0	DEX	26	0	0	0:00
E	22	0	EEX	27	0	0	0:00
F	29	0	FEX	28	0	0	0:00
G1	3	1800	GEX	8	5492.25	3692.25	1:01
G2	4	1800	GEX	8	5492.25	3692.25	1:01

Existing with Partial Project without Otay Lakes Road Improvement

Start Zone	Start Gate	Start Time	End Zone	End Gate	End Time	Elapse Seconds	Elapse Time
Resort Village 1	1	1800	Resort Exit Chula	7	11169	9369	2:36
A	18	1800	AEX	23	15257.95	13457.95	3:44
B	19	1800	BEX	24	9587.25	7787.25	2:09
C	20	1800	CEX	25	10140.55	8340.55	2:19
D	21	1800	DEX	26	11044.9	9244.9	2:34
E	22	1800	EEX	27	14749.75	12949.75	3:35
F	29	1800	FEX	28	13957.45	12157.45	3:22
G1	3	1800	GEX	8	16133.1	14333.1	3:58
G2	4	1800	GEX	8	16133.1	14333.1	3:58

Scenario 3A – Project (Partial Construction with 895 dwelling units) + Existing Land Use without Otay Lakes Road Widening

Start Zone	Start Gate	Start Time	End Zone	End Gate	End Time	Elapse Seconds	Elapse Time
Resort Village 1	1	1800	Resort Exit Chula	7	11169	9369	2:36
A	18	1800	AEX	23	15257.95	13457.95	3:44
B	19	1800	BEX	24	9587.25	7787.25	2:09
C	20	1800	CEX	25	10140.55	8340.55	2:19
D	21	1800	DEX	26	11044.9	9244.9	2:34
E	22	1800	EEX	27	14749.75	12949.75	3:35
F	29	1800	FEX	28	13957.45	12157.45	3:22
G1	3	1800	GEX	8	16133.1	14333.1	3:58
G2	4	1800	GEX	8	16133.1	14333.1	3:58

**Scenario 3B - Project (Partial Construction with 895 Dwelling Units) + Existing Land Uses – Targeted;
Most Probable Evacuation without Otay Lakes Road Widening**

Start Zone	Start Gate	Start Time	End Zone	End Gate	End Time	Elastice Seconds	Elastice Time
Resort Village 1	1	1800	Resort Exit Chula	7	7834	6034	1:40
A	18	0	AEX	23	0	0	0:00
B	19	1800	BEX	24	6739.55	4939.55	1:22
C	20	0	CEX	25	0	0	0:00
D	21	0	DEX	26	0	0	0:00
E	22	0	EEX	27	0	0	0:00
F	29	0	FEX	28	0	0	0:00
G1	3	1800	GEX	8	8593.3	6793.3	1:53
G2	4	1800	GEX	8	8593.3	6793.3	1:53

Roadway Evacuation Capacity

Per the Highway Capacity manual:

“The base capacity values presented in the HCM—for example, 2,400 vehicles per hour per lane on a freeway with a 75-mph free-flow speed, or 1,900 vehicles per hour of green at a traffic signal—are just that: *base values*. These values incorporate, among other factors, ideal roadway geometry, a traffic stream composed entirely of passenger cars, and good weather.

Highway Capacity Manual: A Guide for Multimodal Mobility Analysis

Exhibit 12-4
Basic Freeway and Multilane
Highway Segment Capacity
Under Base Conditions

FFS (mi/h)	Capacity of Basic Freeway Segments (pc/h/ln)	Capacity of Multilane Highway Segments (pc/h/ln)
75	2,400	NA
70	2,400	2,300 ^a
65	2,350	2,300 ^a
60	2,300	2,200
55	2,250	2,100
50	NA	2,000
45	NA	1,900

Notes: NA = not available.

^a Capacities for multilane highways with 65- and 70-mi/h FFS are extrapolated and not based on field data.

The table below presents roadway capacity in five-minute increments, reflecting its significant variations within an hour.

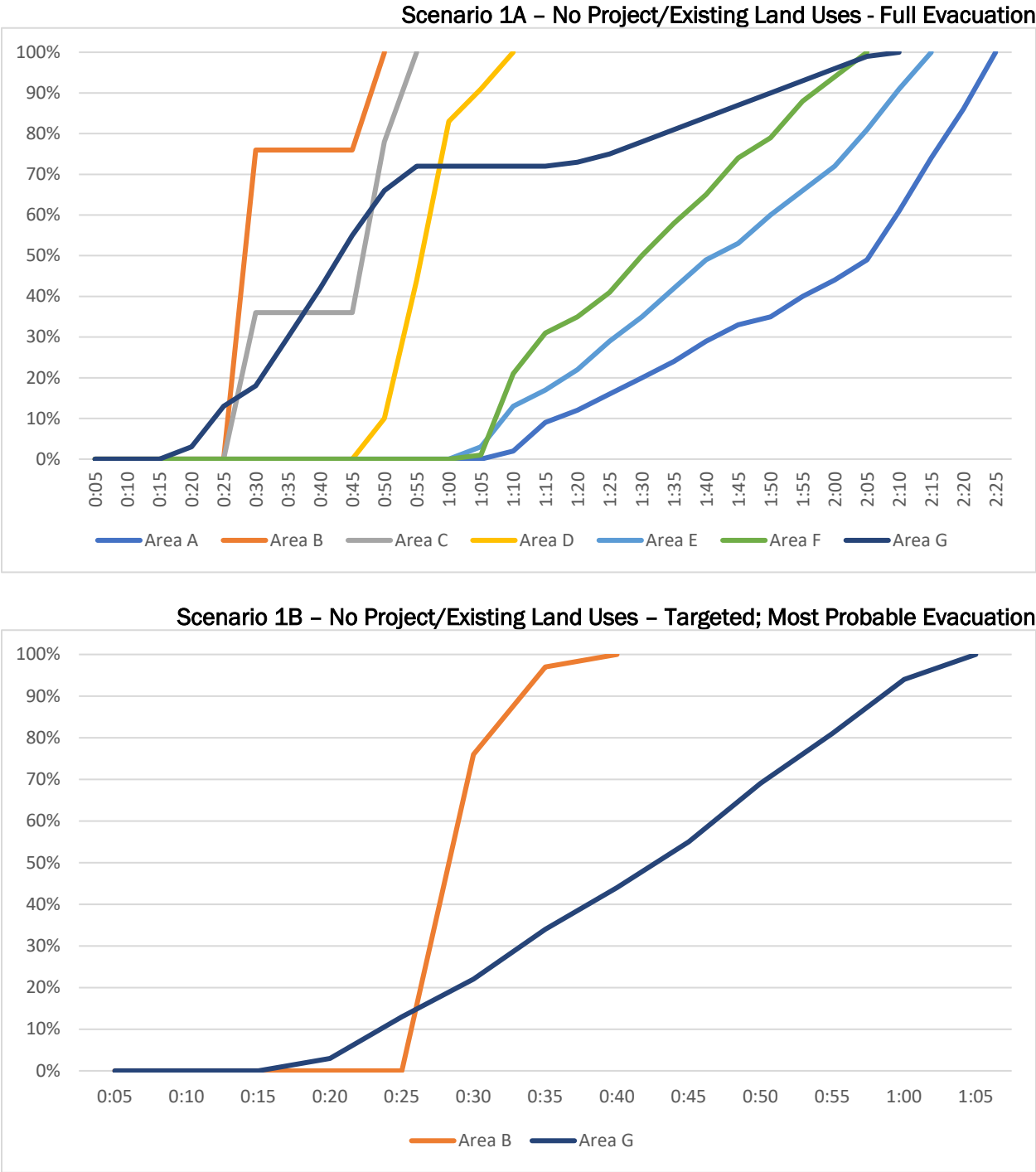
Speed	Capacity per Hour	Capacity per 5 Minutes	Source
25	1500	125	Estimate based on HCM
30	1600	134	Estimate based on HCM
35	1700	142	Estimate based on HCM
40	1800	150	Estimate based on HCM
45	1900	159	HCM Multi-lane Highway
50	2000	167	HCM Multi-lane Highway
55	2100	175	HCM Multi-lane Highway
60	2200	184	HCM Multi-lane Highway
65	2300	192	HCM Multi-lane Highway

The evacuation capacity of each roadway varies due to factors such as speed limits and downstream traffic congestion. As a result, during evacuations, the number of vehicles that can travel per hour per lane is typically lower than during stable flow conditions.

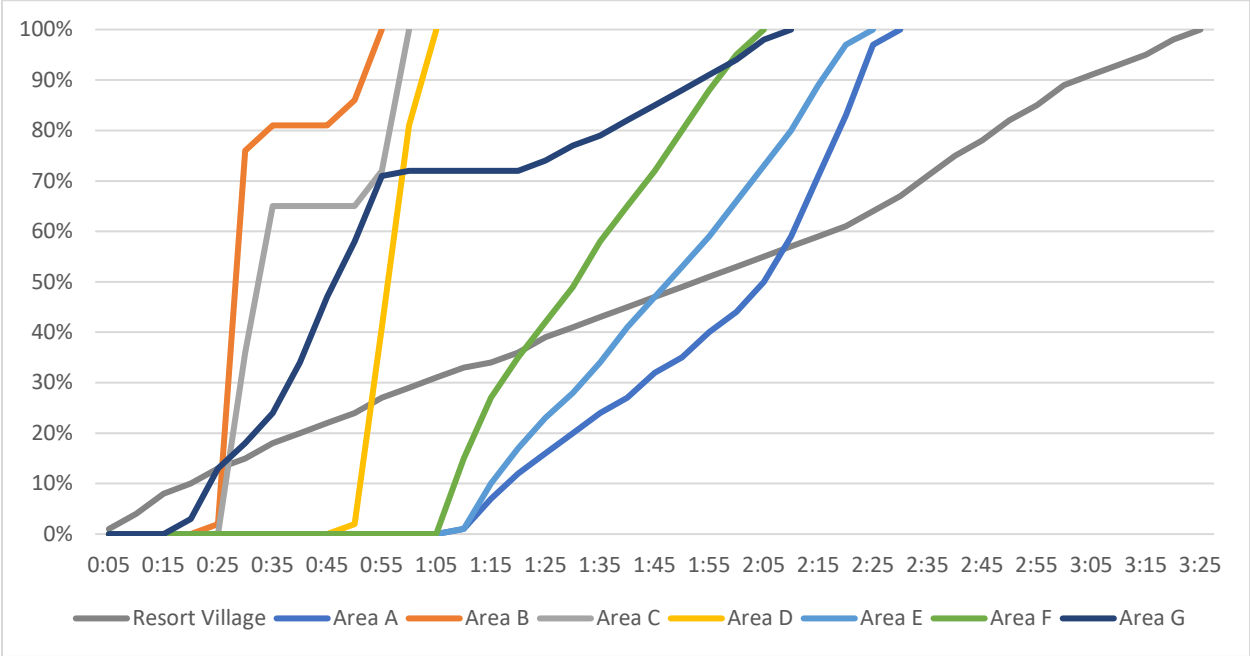
The table below illustrates the number of vehicles passing through various roadway segments in five-minute intervals, as recorded over a two-hour period using the Vissim microsimulation model. The data indicate that the highest observed flows were below the theoretical (HCM) stable flow.

Summary by Scenario

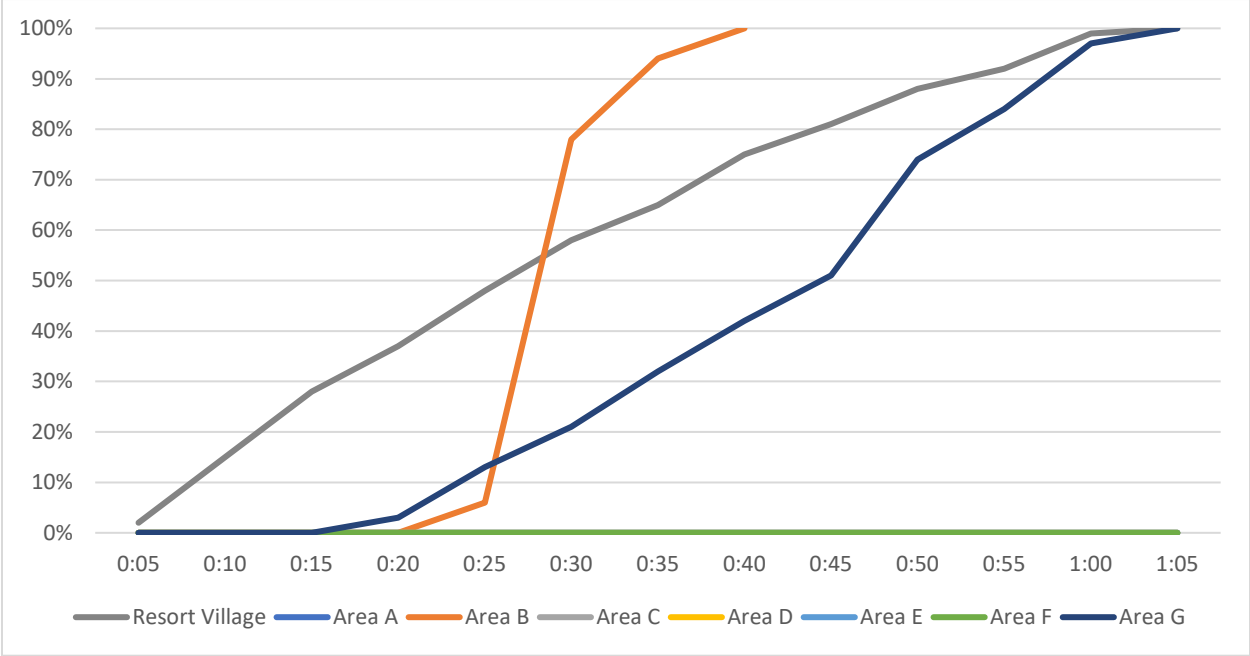
The chart below illustrates the evacuation times for the various scenarios assessed in this report. The duration of evacuation fluctuates based on the volume of vehicles and the chosen evacuation route. Detailed measurements for each area by scenario are presented in the following section.



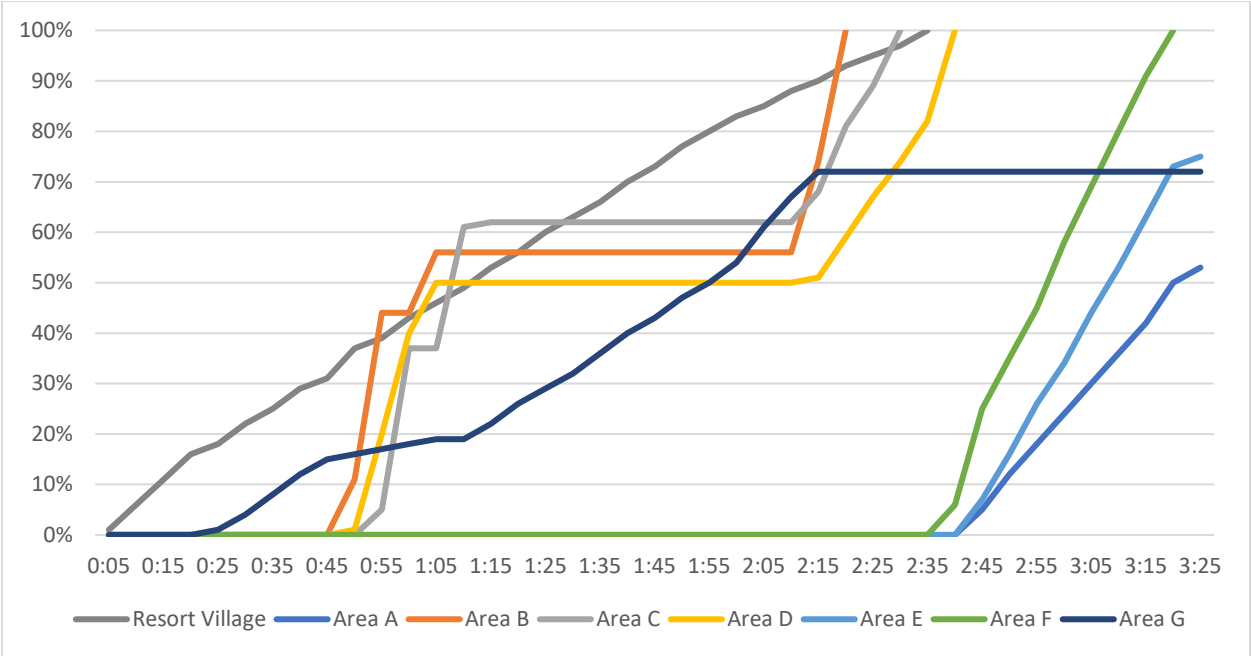
Scenario 2A – Project + Existing Land Uses – Full Evacuation with Otay Lakes Road Widening



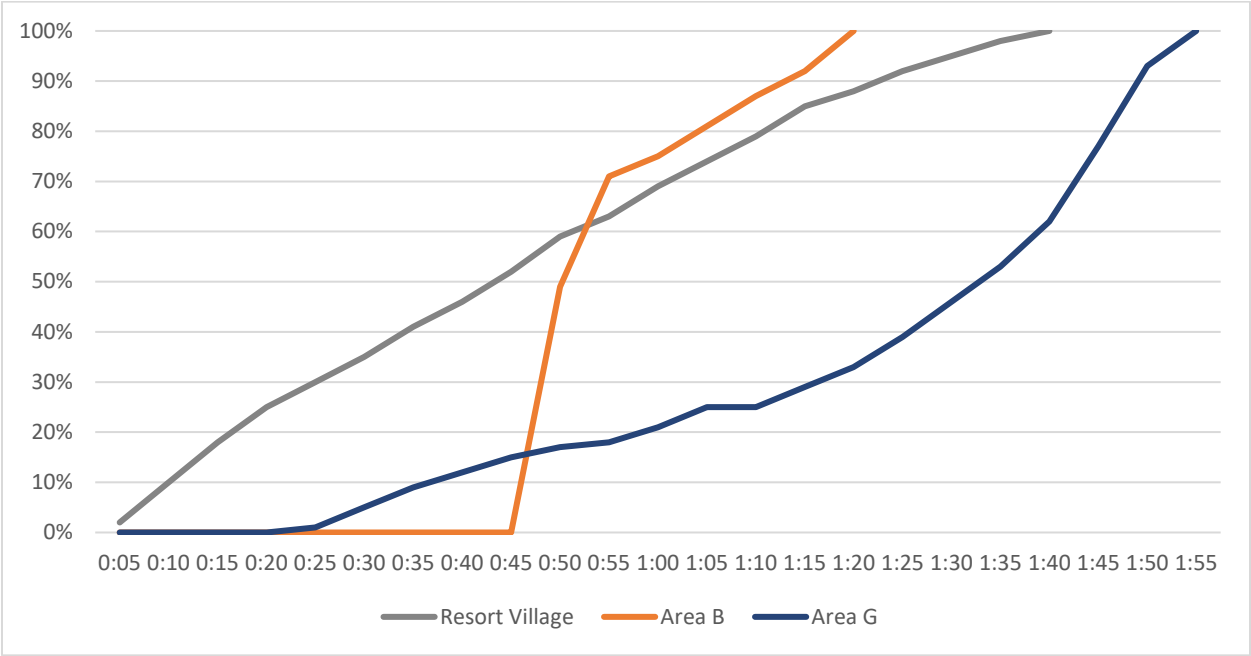
Scenario 2B – Project + Existing Land Uses - Most Probable Evacuation with Otay Lakes Road Widening



Scenario 3A – Project (Partial Construction with 895 dwelling units) + Existing Land Use without Otay Lakes Road Widening



Scenario 3B - Project + Existing Land Uses – Targeted; Most Probable Evacuation without Otay Lakes Road Widening.



Reference & Analysis Tool Selection

The methodology for fire evacuation analysis is rapidly advancing as new data and best practices become available. Before conducting the evacuation analysis, a thorough historical review of fire evacuation behavior and practices was undertaken to ensure the analysis accurately reflects local conditions. Consequently, the list of references in the technical memorandum only includes documents that pertain directly to local operating conditions and behaviors. The intention behind this selective referencing is to guide decision-makers towards specific, location-relevant guidelines rather than providing a comprehensive list of all reviewed best practices.

CRA has compiled an extensive list of research and findings on best practices for both wildfire and standard evacuation analyses. These foundational best practices informed our evacuation analysis, and a selection of the most relevant and recent research is included at the end this section. According to the research, wildfire evacuation analysis is not a one-size-fits-all approach; certain tools and practices are better suited for jurisdiction-wide analysis, including transportation modeling, roadway capacity-based analysis, GIS analysis, and custom tools. Notably, "A Review of Traffic Models for Wildland-Urban Interface Wildfire Evacuation" (Bergstedt, 2017) identified 12 tools for evacuation analysis, a number that continues to grow as more data and computing power become available.

Vissim, although not the sole tool available for fire evacuation analysis, was chosen for its capability to simulate driver behaviors, particularly undesirable behaviors such as competing for the right-of-way during evacuations. This capability is endorsed by the Bergstedt research paper and is utilized by various agencies, including the Utah Department of Transportation and the Florida Department of Transportation for hurricane evacuation analysis. Vissim's popularity and widespread use in evacuation analysis are evidenced by its citation in over 700 research papers, reflecting its effectiveness in mirroring human behavior. Despite the availability of other tools, Vissim was deemed the most suitable for this Project's evacuation analysis.

The WUI-NITY, while an impressive tool designed for evaluating jurisdiction-wide evacuation, does not fully meet the specific needs of this Project. A critical aspect of our analysis is to manage varying traffic flows and dynamic roadway capacities that change due to downstream congestion. The WUI-NITY, which focuses on larger planning areas, relies on a simplified ad hoc traffic movement model that uses common assumptions in evacuation modeling and determines road capacity based on the number of lanes and road type. While this approach is generally acceptable, our study requires a more nuanced method that accounts for local conditions, such as winding roads where actual driving speeds may be lower than posted limits. Therefore, we opted to use Vissim for its finer detail in simulation.

Similarly, the Wildfire Safe Egress – Platform (WISE), developed by the UCLA Engineering Department, employs an approach akin to that of WUI-NITY. However, WISE, being a GIS-based analysis tool, considers varying evacuation patterns and uses GIS analysis to estimate actual evacuation times. Like WUI-NITY, the WISE platform is better suited for broader planning level analysis and does not offer the detailed benefits provided by the Vissim microsimulation platform.

Additionally, the "Traffic Modeling for Wildland–Urban Interface Fire Evacuation" research paper, which evaluated a broad range of potential fire evacuation modeling platforms including microsimulation, supports the methodology used in this Project. The paper underscores that microsimulation should be sensitive to local conditions and reflect actual demand. This aligns with our approach: vehicle ownership was derived from census data to mirror local demand accurately, and speed and traffic counts were meticulously gathered from all study area roadways to calibrate the model. The research findings affirm the conclusions of the CRA team regarding the adoption of best practices in evacuation modeling.

CRA Library of References – Fire and Evacuation Studies

Arthur Rohaert, Erica D. Kuligowski, Adam Ardinge, Jonathan Wahlqvist, Steven M.V. Gwynne, Amanda Kimball, Nouredine Bénichou, Enrico Ronchi, Traffic dynamics during the 2019 Kincade wildfire evacuation, *Transportation Research Part D: Transport and Environment*, Volume 116, 2023, 103610, ISSN 1361-9209, <https://doi.org/10.1016/j.trd.2023.103610>.

Morris, George. Edited by Carrie Dennis, California Department of Forestry and Fire Protection, 2020, pp. 1–122, *2020 Fire Siege*.

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Technical Memorandum

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EXHIBIT 8
Sierra Club Comfort Letter

[Date]

[Addressee]

Re: Intentions of the Sierra Club Regarding Otay Ranch Village 13 Project

Dear _____:

This letter is intended to convey Sierra Club's intentions regarding the Revised Otay Ranch Village 13 Project ("Revised Project") and the Increased Unit Project. The reassurance Sierra Club offers in this letter is not a material term of any settlement agreement the Parties reach, nor is it a contract in its own right or otherwise legally binding. In the interest of reaching settlement, however, we do wish to convey non-binding representations regarding the intentions of the Sierra Club with respect to the Revised Project and the Increased Unit Project.

Except as specifically authorized by the Settlement Agreement, the Sierra Club has no intention of encouraging, soliciting, cooperating, or communicating with any other third person, entity, organization, or association with the purpose of changing or modifying the Revised Project or the Increased Unit Project, to any agency having jurisdiction over these project applications.

Please be aware that the Sierra Club is a large nonprofit organization comprising many volunteers, and Sierra Club cannot control actions that its volunteers and members take in their individual capacities. Moreover, Sierra Club has limited ability to control the activities of its volunteers in their Sierra Club capacities. Accordingly, Sierra Club cannot provide a contractual commitment regarding the aforementioned intentions. Sierra Club nevertheless is willing and intends to take appropriate steps to correct any actions that may be taken in the name of Sierra Club which are inconsistent with these intentions, promptly upon learning of any such actions.

Should you have any questions concerning the foregoing, please contact me at 619-940-4522.

Sincerely,

[Signatory]

EXHIBIT 9
Form of Joint Request for Substitution of Mitigation

[Date]

[County of San Diego Addressee]

Re: Joint Request for Substitution of Otay Village 13 Mitigation Measures M-GCC-7 and M-GCC-8 with Greenhouse Gas Mitigation Fund

Dear:

On [date], a settlement agreement (“Settlement Agreement”) was executed between Moller Otay Lakes Investments, LLC, Lakeview 1, LLC, Lakeview 2, LLC, and Baldwin & Sons, LLC (collectively, “Developer”); the Sierra Club, Center for Biological Diversity, Endangered Habitats League, Preserve Wild Santee, California Chaparral Institute, and California Native Plant Society (collectively, “Environmental Parties”); and the People of the State of California via Attorney General Rob Bonta (“the People”) to settle litigation¹ regarding the Otay Ranch Village 13 Project (“Otay 13 Project”).

Through a collaborative effort, Developer, Environmental Parties, and the People have agreed on revisions to the Otay 13 Project that will significantly reduce its development footprint, provide 292 additional acres of on-site preserve, and increase on-site mitigation measures, including measures for impacts to Greenhouse Gas (“GHG”) emissions.

The Settlement Agreement further provides for the creation and implementation of a mitigation fund to serve as additional offsite mitigation for the Otay 13 Project’s GHG emissions (“GHG Mitigation Fund”). The Settlement Agreement requires Developer to pay at least \$15,000,000 and up to \$21,284,880 into the GHG Mitigation Fund to fund GHG emissions reductions projects in the County of San Diego (“County”).

Developer, the Environmental Parties, and the People jointly request that the County approve the substitution of the GHG Mitigation Fund and other GHG measures identified in the Settlement Agreement in lieu of the Otay 13 Project Final Environmental Impact Report’s adopted Mitigation Measures M-GCC-7 and M-GCC-8, which allow for the purchase of voluntary market carbon offset credits outside of California. Developer, Environmental Parties, and the People believe that the GHG Mitigation Fund, together with the other GHG mitigation measures in the Settlement Agreement, will provide far greater mitigation for the Otay 13 Project’s GHG impacts than the previously required voluntary market offset credits.

¹ *Center for Biological Diversity, et al. v. County of San Diego, et al.*, San Diego County Superior Court Case No. 37-2020-00046553.

[Addressee]

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The GHG Mitigation Fund will utilize rigorous guidelines and selection criteria to mitigate the Otay 13 Project's GHG emissions, while bringing co-benefits to the County of San Diego. A qualified and experienced Fund Administrator will establish and administer the GHG Mitigation Fund, and will have the ability to retain consultants with expertise to assist with the development and implementation of the program that will solicit and source proposals for eligible projects.

Pursuant to the terms of the Settlement Agreement and the GHG Mitigation Fund Protocol, only select projects will be eligible for funding. Eligible projects must reduce GHG emissions in the County, not directly benefit projects in Otay Ranch or in which the Developer or any affiliates has a financial interest, not be used to satisfy mitigation measures or other conditions of approval for a development project, and exceed the requirements of applicable federal, state, and local laws.

The GHG Mitigation Fund will prioritize projects that (1) result in GHG emissions reductions that are real, permanent, quantifiable, verifiable, enforceable, and additional, (2) support efforts to monitor or improve air quality in disadvantaged communities and other locales that are most burdened by air pollution, and (3) receive funding from other available sources, including incentive programs, to maximize the benefit of the GHG Mitigation Fund. The Fund Administrator, with approval of the Attorney General's Office following consultation with Fund Advisors (representatives from up to two of the Environmental Parties), will select projects that collectively maximize emissions reductions in a cost-efficient manner. Furthermore, projects that reduce air pollution in disadvantaged communities in southern San Diego County will be given preference during the project selection process.

The GHG Mitigation Fund will provide mitigation for the Otay 13 Project's GHG emissions that cannot be mitigated on-site. As a result of the Settlement Agreement, the revised Otay 13 Project to be proposed by Developer will feature both additional and improved on-site and off-site GHG mitigation measures. The GHG Mitigation Fund will directly benefit the County and communities most burdened by air pollution and will be subject to rigorous oversight and procedural safeguards.

We respectfully request that the County approve the substitution of the GHG Mitigation Fund in lieu of the Otay 13 Project's adopted Mitigation Measures M-GCC-7 and M-GCC-8.

Sincerely,

BALDWIN & SONS, LLC, a California limited liability company _____	MOLLER OTAY LAKES INVESTMENTS, LLC, a Delaware limited liability company _____
---	--

[Addressee]

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LAKEVIEW 1, LLC, a California limited liability company _____	LAKEVIEW 2, LLC, a California limited liability company _____
THE PEOPLE OF THE STATE OF CALIFORNIA, <i>EX REL.</i> ROB BONTA, ATTORNEY GENERAL OF CALIFORNIA _____	CENTER FOR BIOLOGICAL DIVERSITY, a California nonprofit public benefit corporation _____
ENDANGERED HABITATS LEAGUE, a California nonprofit public benefit corporation _____	CALIFORNIA NATIVE PLANT SOCIETY, a California nonprofit public benefit corporation _____
SIERRA CLUB, a California nonprofit public benefit corporation _____	CALIFORNIA CHAPARRAL INSTITUTE, a California nonprofit public benefit corporation _____
PRESERVE WILD SANTEE, a volunteer community environmental organization _____	

EXHIBIT 10
Form of Subordination Agreement

OTAY RANCH VILLAGE 13 SUBORDINATION AGREEMENT

THIS OTAY RANCH VILLAGE 13 SUBORDINATION AGREEMENT (“**Agreement**”) is made and entered into as of _____ by Philadelphia Indemnity Insurance Company, (“**Surety**”) for the benefit of the People of the State of California, ex rel. Rob Bonta, Attorney General of California (“**People**”) and the Center for Biological Diversity, Preserve Wild Santee, California Chaparral Institute, Endangered Habitats League, California Native Plant Society, and Sierra Club (collectively “**Environmental Parties**”) (People and Environmental Parties, collectively, “**Benefitted Parties**”). Surety and Benefitted Parties are each a “**Party**” and collectively the “**Parties**.”

RECITALS

AGREEMENT IS MADE WITH REFERENCE TO THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. Moller Otay Lakes Investments, LLC, Lakeview 1, LLC and Lakeview 2, LLC (collectively, “**Lakeview**”) is the owner of approximately 1,869 acres of land situated in n the Jamul Mountains region of unincorporated San Diego County (APNs 598-130-04, -05, & -06; 598-140-04, -05, & -06; 647-020-14; and 647-030-05) (“**Property**”). In 2020, Lakeview and Baldwin & Sons, LLC (together “**Developer**”) obtained approval for the Otay Ranch Village 13 project on the Property.

B. Thereafter, Environmental Parties filed a lawsuit challenging the project approvals and related environmental impact report in *Center for Biological Diversity, et al. v. County of San Diego, et al.*, San Diego County Superior Court Case No. 37-2020-00046553 (the “**Lawsuit**”). The People intervened in the Lawsuit in support of Environmental Parties.

C. Subsequently, Developer and Benefitted Parties entered into that certain Settlement Agreement Regarding Otay Ranch Village 13 Project dated _____, 2025 (“**Settlement Agreement**”), notice of which was given in that certain Memorandum of Agreement recorded in the official records of San Diego County (“**Official Records**”) as Instrument No. _____. The Settlement Agreement requires Developer to, inter alia, revise the project to reduce its development footprint and to incorporate a number of additional mitigation measures, to refrain from developing outside of the revised footprint, and to place the lands outside of the revised footprint into a permanent conservation easement (“**Conservation Easement**”). In consideration for the foregoing, Benefitted Parties agreed, inter alia, that the Developer could apply for approval to increase the number of units to be developed compared to the original project and the benefitted Parties would only oppose that application subject to the terms of the Settlement Agreement and that, if certain conditions are met, the parties would seek entry of a consent judgment

ending the Lawsuit. The Settlement Agreement further provides that its terms and conditions shall run with the land and are binding on future owners of the Property.

E. On _____, Surety extended surety credit for a certain bond, secured by a Deed of Trust recorded on February 23, 2018, against that portion of the Property more particularly described in Exhibit 1 (“**DOT Property**”) recorded in the Official Records as, Instrument No. 2018-0072853 (“**Deed of Trust**”).

F. Benefitted Parties and Developer have agreed in the Settlement Agreement that the Deed of Trust shall be subordinated to the Settlement Agreement, and that the obligations of the Benefitted Parties shall not become effective until this Agreement is recorded.

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Surety agrees as set forth below.

AGREEMENT

1. Agreement to Subordinate Deed of Trust

1.1 Subordination

The Deed of Trust is hereby and shall at all times continue to be subject to and unconditionally subordinate in all respects to the covenants, conditions, terms, and liens of the Settlement Agreement, and any rights, privileges, powers, and interests of the Benefitted Parties arising under the Settlement Agreement (including without limitation all terms and conditions of the Conservation Easement when recorded), and to any renewals, extension, modifications, amendments, assignments, replacements, or consolidations thereof agreed to in writing by Developer.

1.2 Subordination of Subrogation Rights

Surety agrees that if, by reason of their payment of real estate taxes or other monetary obligations of Developer, or by reason of its exercise of any other right or remedy under the Deed of Trust, it acquires by right of subrogation or otherwise a lien the DOT Property which (but for this subsection) would be senior to the Settlement Agreement, then, in that event, such lien shall be subject and subordinate to the Settlement Agreement.

1.3 Non-Disturbance

In the event of Developer’s default of its obligations to Surety under certain surety agreements, and Surety’s foreclosure or private sale under a security document or conveyance in lieu of foreclosure, the Surety agrees that Benefitted Parties shall not be named as a party therein unless such joinder shall be required by law, provided, however, that such joinder shall not result in the disturbance of the rights, privileges, powers, and interests of the Benefitted Parties under the Settlement Agreement, and the sale of the DOT Property in any such action or proceeding and the exercise by Surety of any of its other rights under the Deed of Trust shall be subject to the subordination provisions of this Agreement.

1.4 Further Documents

The foregoing provision shall be self-operative and effective without the execution of any further instruments on the part of any Party.

2. **Representations and Warranties**

2.1 Surety's Representations and Warranties

The Surety represents and warrants to the Benefitted Parties, to the Surety's actual knowledge, as of the Effective Date:

(a) Authority. The Surety has all requisite power and authority to execute and deliver this Agreement and carry out and perform all the terms and covenants of this Agreement. Persons signing this Agreement for Surety have all requisite power and legal authority to do so.

(b) Valid Existence; Good Standing; Joint Venture Relationships. Surety is Pennsylvania corporation, qualified an authorized to transact business as a surety in the State of California.

(c) No Limitation on Ability to Perform. There is no operating agreement, organization document, or any other agreement or law that in any way prohibits, limits, or otherwise affects the right or power of the Surety to enter and perform all the terms and covenants of this Agreement. No consent, authorization, or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person or entity is required for the due execution, delivery, and performance by the Surety of this Agreement or any of the terms and covenants contained in this Agreement.

(d) Valid Execution. The execution and delivery of this Agreement by the Surety has been duly and validly authorized by all necessary action. This Agreement is a legal, valid, and binding obligation of the Surety.

2.2 Continued Accuracy

If at any time prior to the Effective Date any event or circumstance occurs that would render inaccurate or misleading in any material respect any of the foregoing representations or warranties, the Party making the representation shall immediately notify the other Party thereof.

3. **General Provisions**

3.1 Severability

If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would

be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement.

3.2 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California. All actions or proceedings arising directly or indirectly under this Agreement shall be litigated in courts located within the County of Diego, State of California, United States and the Parties expressly consent to the jurisdiction of any such local, state, or federal court, and consent that any service of process in such action or proceeding may be made by personal service on the Parties wherever they may be located, or by certified or registered mail directed to the Party at the address set forth in this Agreement.

3.3 Notices

Each Party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a “**Notice**”) in writing and addressed to any other Party at the corresponding address set out below (or to any other address that a receiving Party may designate from time to time in accordance with this Section). Each Party shall deliver all Notices by electronic mail (with confirmation of receipt), by personal delivery, nationally recognized overnight courier (with all fees prepaid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section. Any Party hereto may at any time, by giving ten (10) days’ written notice to the other Party hereto, designate any other person or address in substitution of the address to which such notice shall be given.

If to Center for Biological Diversity, Preserve Wild Santee or California Chaparral Institute:

Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, CA 94612
Attn: Peter Broderick
Email: pbroderick@biologicaldiversity.org

If to Endangered Habitats League:

Endangered Habitats League
8424 Santa Monica Blvd., Suite A 592
Los Angeles, CA 90069-4267
Attn: Dan Silver, Executive Director
Email: dsilverla@me.com

with a copy to:

Shute, Mihaly & Weinberger LLP
296 Hayes Street
San Francisco, CA 94102
Attn: Laura D. Beaton
Email: beaton@smwlaw.com

If to California Native Plant Society:

California Native Plant Society
2707 K Street, Suite 1
Sacramento, CA 95816-5130
Attention: Nick Jensen, Conservation Program Director
Email: cnps@cnps.org, njensen@cnps.org

with a copy to:

Shute, Mihaly & Weinberger LLP
296 Hayes Street
San Francisco, CA 94102
Attn: Laura D. Beaton
Email: beaton@smwlaw.com

If to Sierra Club:

Sierra Club
4241 Jutland Dr., Ste 303
San Diego, CA 92117
Attn: Peter Andersen
Email: westone47@gmail.com

Sierra Club
Aaron Isherwood or Coordinating Attorney
2101 Webster St., Suite 1300
Oakland, CA 94612
Email: aaron.isherwood@sierraclub.org

with a copy to:

Chatten-Brown Law Group, APC
325 W. Washington Street, Suite 2193
San Diego, CA 92103
Attn: Josh Chatten-Brown
Email: jcb@chattenbrownlawgroup.com

If to the People:

Office of the Attorney General
 300 S. Spring Street, Suite 1702
 Los Angeles, CA 90013
 Attn: Catherine M. Wieman, Daniel Olivas
 Email: catherine.wieman@doj.ca.gov
daniel.olivas@doj.ca.gov

If to Surety:

Philadelphia Indemnity Insurance Company
 100 Princeton South Corporate Center, Suite 350
 Ewing, NJ 08628
 Attn: Richard Kukosky, Darius Cook
 Email: richard.kukosky@phly.com; darius.cook@phly.com

3.4 Interpretation of Agreement

(a) Captions. Whenever a section, article, or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The captions preceding the Sections of this Agreement have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.

(b) Words of Inclusion. The use of the terms “including,” “such as” or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether language of non-limitation is used. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term, or matter.

(c) References. Wherever reference is made to any provision, term, or matter “in this Agreement,” “herein” or “hereof” or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered Section or paragraph of this Agreement or any specific subdivision thereof.

(d) Recitals. In the event of any conflict or inconsistency between the recitals and any of the remaining provisions of this Agreement, the remaining provisions of this Agreement shall prevail.

(e) No Presumption against Drafter. This Agreement has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each Party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the Parties and this Agreement.

3.4 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

3.5 Effective Date

This Agreement shall be effective on the date on which this Agreement is recorded in the official records of the County of San Diego, California (the “**Effective Date**”).

By: Philadelphia Indemnity Insurance Company

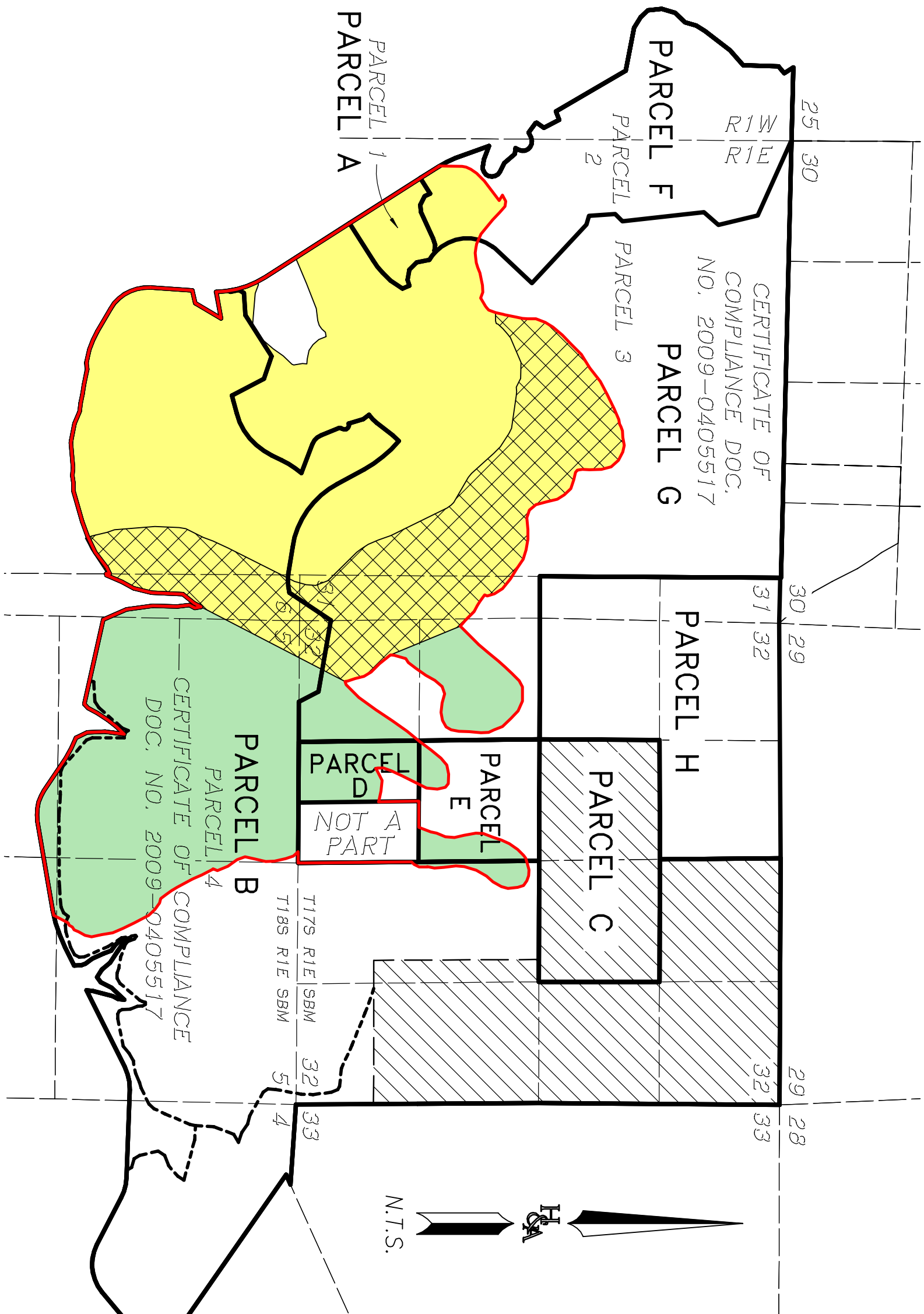
By: _____
 Name: _____
 Title: _____

Countersigned:

THE PEOPLE OF THE STATE OF CALIFORNIA, <i>EX REL.</i> ROB BONTA, ATTORNEY GENERAL OF CALIFORNIA By: _____ Name: _____ Title: _____	CENTER FOR BIOLOGICAL DIVERSITY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____
ENDANGERED HABITATS LEAGUE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____	CALIFORNIA NATIVE PLANT SOCIETY, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____

SIERRA CLUB, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____	CALIFORNIA CHAPARRAL INSTITUTE, a California nonprofit public benefit corporation By: _____ Name: _____ Title: _____
PRESERVE WILD SANTEE, a volunteer community environmental organization By: _____ Name: _____ Title: _____	

VILLAGE 13



PARCEL X

PARCEL DESIGNATION PER PRELIMINARY REPORT ISSUED BY FIRST AMERICAN TITLE COMPANY, ORDER NO. NHSC-5623649 DATED 11/6/2024.

OPEN SPACE EASEMENT GRANTED TO THE COUNTY OF SAN DIEGO AND CITY OF CHULA VISTA 8/9/2018 AS DOC# 2018-0325995, O.R.

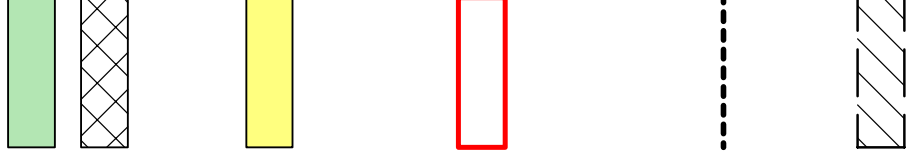
CENTERLINE OF 12' WIDE ACCESS EASEMENT FOR MONITORING AND MAINTENANCE OF PRESERVE LAND GRANTED TO THE COUNTY OF SAN DIEGO AND CITY OF CHULA VISTA 8/9/2018 AS DOC# 2018-0325996, O.R.

DEVELOPMENT FOOTPRINT PER REPLACEMENT TENTATIVE MAP/ PRELIMINARY GRADING PLAN OTAY RANCH VILLAGE 13 (EIR ALTERNATIVE H) SUBMITTED 2/3/2020.

APPROXIMATE LOCATION OF REVISED DEVELOPMENT FOOTPRINT PER "EXHIBIT 2" PREPARED BY DESIGN FUSION INTERNATIONAL INC DATED 10/16/2024.

SELECTION AREA FOR ADDITIONAL 50-ACRE CONSERVATION AREA.

ADDITIONAL OPEN SPACE.



IRREVOCABLE STANDBY LETTER OF CREDIT

CREDIT NUMBER: TBD

AMOUNT: USD TBD

DATE: TBD

EXPIRATION DATE: {ONE YEAR FROM ISSUANCE}

ISSUER: [BANK NAME]
[PHYSICAL BANK ADDRESS]

APPLICANT: NAME AND ADDRESS

BENEFICIARY: NAME AND ADDRESS

[BANK NAME] HEREBY ISSUES ITS IRREVOCABLE STANDBY LETTER OF CREDIT IN FAVOR OF BENEFICIARY FOR ACCOUNT OF THE ABOVE-NAMED APPLICANT IN THE AMOUNT OF USD _____ (_____ AND NO/100 U.S. DOLLARS), AVAILABLE BY YOUR DRAFT ON US AT SIGHT, TO BE PRESENTED FOR NEGOTIATION NOT LATER THAN THE EXPIRATION DATE, OR ANY EXTENDED EXPIRY DATE, AT THE COUNTERS OF [BANK NAME], [PHYSICAL BANK ADDRESS] AND MARKED: "DRAWN UNDER [BANK NAME], LETTER OF CREDIT NUMBER _____, DATED _____, ACCOMPANIED BY THE FOLLOWING:

1. BENEFICIARY'S STATEMENT PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE OF BENEFICIARY, READING AS FOLLOWS:

- A. "BENEFICIARY IS ENTITLED TO DRAW UNDER LETTER OF CREDIT NUMBER _____ IN THE AMOUNT OF USD \$[_____] PURSUANT TO THE TERMS OF THAT CERTAIN AGREEMENT DATED _____, BETWEEN BENEFICIARY, AND APPLICANT. WE CERTIFY THE APPLICANT IS IN DEFAULT _____."; **OR**
- B. "[BANK NAME] HAS NOTIFIED US THAT THIS LETTER OF CREDIT WILL NOT BE EXTENDED BEYOND THE CURRENT EXPIRATION DATE OF THIS LETTER OF CREDIT AND APPLICANT HAS NOT DELIVERED TO BENEFICIARY AT LEAST THIRTY (30) DAYS PRIOR TO THE CURRENT EXPIRATION OF THIS LETTER OF

CREDIT A REPLACEMENT LETTER OF CREDIT SATISFACTORY TO
BENEFICIARY”

2. ORIGINAL OF THIS LETTER OF CREDIT AND ANY AMENDMENTS.

THIS LETTER OF CREDIT SHALL BE DEEMED TO BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ONE (1) YEAR FROM THE EXPIRATION DATE HEREOF, OR ANY FUTURE EXPIRATION DATE, UNLESS AT LEAST SIXTY(60) DAYS PRIOR TO ANY EXPIRATION DATE WE SHALL NOTIFY YOU IN WRITING BY OVERNIGHT COURIER TO YOUR ADDRESS SET FORTH ABOVE THAT WE ELECT NOT TO CONSIDER THIS LETTER OF CREDIT EXTENDED FOR ANY SUCH ADDITIONAL PERIOD IN WHICH EVENT YOU MAY DRAW ON THIS LETTER OF CREDIT AS PROVIDED ABOVE.

THIS LETTER OF CREDIT IS NOT SUBJECT TO ANY CONDITION OR QUALIFICATION AND IS OUR INDIVIDUAL OBLIGATION WHICH IS IN NO WAY CONTINGENT UPON REIMBURSEMENT FROM APPLICANT OR ANY OTHER PERSON.

PARTIAL DRAWINGS ARE PERMITTED.

WE HEREBY AGREE WITH THE DRAWERS OF DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT THAT THE SAME SHALL BE HONORED ON DUE PRESENTATION TO DRAWEE.

THIS CREDIT IS SUBJECT TO INTERNATIONAL STANDBY PRACTICES (ISP98) PUBLICATION NO. 590.

EXHIBIT 13

Requirements for Letters of Credit

The following terms and provisions shall apply to each letter of credit (“**LOC**”) required by Section 5 of the attached Settlement Agreement and to any renewal, extension, or replacement thereof.

(a) General. Developer shall obtain a LOC for, and name as beneficiary thereof, each of the following (each a “**Beneficiary**”):

- (i) California Department of Justice
- (ii) Shute, Mihaly & Weinberger LLP
- (iii) Chatten-Brown Law Group APC
- (iv) Center For Biological Diversity

Each LOC shall be an irrevocable standby letter of credit. Developer shall be required to provide each Beneficiary sixty (60) days prior written notice of the termination of any LOC.

(b) Term; Renewal. Developer shall renew, extend, or replace each LOC until such time as each Beneficiary’s attorneys’ fees are paid in full.

(c) Rating. Each LOC (and any replacement LOC) shall be provided by an institution with an obligation rating of “A” or higher, without regard to numerical or other modifiers, of the long term obligation rating by all nationally recognized rating agencies.

(f) Amount of LOC. The amount of the LOCs, including the amount stated in any renewals or replacements of the LOCs or other security, shall be as follows:

- (i) For California Department of Justice: \$668,000.00
- (ii) For Shute, Mihaly & Weinberger LLP: \$133,000.00
- (iii) For Chatten-Brown Law Group APC: \$144,000.00
- (iv) For Center For Biological Diversity: \$71,000.00

(g) Draws on LOC. The Beneficiary may draw on the full amount of an LOC or other security without any further notice to Baldwin upon the occurrence of any one or more of the following events:

- (i) Developer fails to timely make the Final Payment due to the Beneficiary as required by Section 5 of the attached Settlement Agreement;

- (ii) Developer fails to provide a renewal or extension of an existing LOC, or a replacement or substitute LOC on the same terms, not less than thirty (30) days prior to the expiration date of the LOC.
- (h) No Liability. No Beneficiary shall be liable for the payment of any costs of any LOC, for payments or reimbursements for drawings which may become due and payable to any institution which has issued or provided all or any portion of the LOC, or costs or reimbursements to or required from or by Developer in connection with the LOC. The foregoing notwithstanding, nothing in this paragraph shall release a Beneficiary from liability for any drawing which the Beneficiary is not entitled to make under this Agreement or the LOC.