



County of San Diego

MARK WARDLAW
DIRECTOR

PLANNING & DEVELOPMENT SERVICES
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123
www.sdcounty.ca.gov/pds

KATHLEEN A. FLANNERY
ASSISTANT DIRECTOR

MITIGATED NEGATIVE DECLARATION

PROJECT NAME: Monserate Winery

RECORD ID: PDS2018-MUP-74-165W1; PDS2017-LDGRMJ-30122

ENVIRONMENTAL LOG NO.: PDS2018-ER-18-02-003

**This Document is Considered Draft Until it is Adopted by the Appropriate
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
 - b. Environmental Analysis Form and attached extended studies for drainage, traffic, and noise.
1. California Environmental Quality Act Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

Please refer to the attached Environmental Initial Study for the rational for requiring of the following measures:

1. **BIO#1–BIOLOGICAL EASEMENT [PDS, FEE X 2]**

In order to protect sensitive biological resources, pursuant to the County of San Diego Guidelines for Determining Significance for Biological Resources, a biological open space

easement shall be granted. **DESCRIPTION OF REQUIREMENT:** Grant to the County of San Diego, an open space easement, as shown in Biological Resources Report dated August 2019 prepared by REC Consultants, Inc. This easement is for the protection of biological resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation. The only exceptions to this prohibition are:

- a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the applicable fire code of the Fire Authority Having Jurisdiction and the Memorandum of Understanding dated February 26, 1997, (<http://www.sdcounty.ca.gov/PDS/docs/MemoofUnder.pdf>) between the wildlife agencies and the fire districts and any subsequent amendments thereto. b. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of PDS, DPW or DPR.

DOCUMENTATION: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the *[DGS, RP]*, and pay all applicable fees associated with preparation of the documents. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit the easements shall be recorded. **MONITORING:** The *[DGS, RP]* shall prepare and approve the easement documents and send them to *[PDS, PCC]* for pre-approval. The *[PDS, PCC]* shall pre-approve the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon Recordation of the easements *[DGS, RP]* shall forward a copy of the recorded documents to *[PDS, PCC]* *[DPR, TC]* for satisfaction of the condition.

2. CULT#1-ARCHAEOLOGICAL MONITORING

INTENT: In order to mitigate for potential impacts to undiscovered buried archaeological resources and human remains within native soils, an Archaeological Monitoring Program and potential Data Recovery Program for earth disturbing activities into native soils shall be implemented pursuant to the County of San Diego Guidelines for Determining Significance for Cultural Resources and the California Environmental Quality Act (CEQA). **DESCRIPTION OF REQUIREMENT:** A County Approved Principal Investigator (PI) known as the "Project Archaeologist," shall be contracted to perform archaeological monitoring and a potential data recovery program during all earth disturbing activities within native soils. The archaeological monitoring program shall include the following:

- a. The Project Archaeologist shall perform the monitoring duties before, during and after construction pursuant to the most current version of the County of San Diego Guidelines for Determining Significance and Report Format and Requirements for Cultural Resources. The contract or letter of acceptance provided to the County

shall include an agreement that the archaeological monitoring will be completed, and a Memorandum of Understanding (MOU) between the Project Archaeologist and the County of San Diego shall be executed. The contract or letter of acceptance shall include a cost estimate for the monitoring work and reporting.

- a. The Project Archeologist shall provide evidence that a Luiseno Native American has been contracted to perform Native American Monitoring for the project.
- c. The cost of the monitoring shall be added to the grading bonds or bonded separately.

DOCUMENTATION: The applicant shall provide a copy of the Archaeological Monitoring Contract or letter of acceptance, cost estimate, and MOU to [PDS, PPD]. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate.

TIMING: Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** [PDS, PPD] shall review the contract or letter of acceptance, MOU and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to [PDS, PPD] for inclusion in the grading bond cost estimate, and grading bonds and the grading monitoring requirement shall be made a condition of the issuance of the grading or construction permit.

3. **CULT-GR#2-ARCHAEOLOGICAL MONITORING – ROUGH GRADING**

INTENT: In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, an Archaeological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist shall prepare one of the following reports upon completion of the earth-disturbing activities that require monitoring:

- a. **No Archaeological Resources Encountered.** If no archaeological resources are encountered during earth-disturbing activities, then submit a final Negative Monitoring Report substantiating that earth-disturbing activities are completed and no cultural resources were encountered. Archaeological monitoring logs showing the date and time that the monitor was on site and any comments from the Native American Monitor must be included in the Negative Monitoring Report.
- b. **Archaeological Resources Encountered.** If archaeological resources were encountered during the earth disturbing activities, the Project Archaeologist shall provide an Archaeological Monitoring Report stating that the field monitoring activities have been completed, and that resources have been encountered. The report shall detail all cultural artifacts and deposits discovered during monitoring and the anticipated time schedule for completion of the curation and/or repatriation phase of the monitoring.

DOCUMENTATION: The applicant shall submit the Archaeological Monitoring Report to [PDS, PPD] for review and approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center, the Rincon Band of Luiseno Indians, and any culturally-affiliated Tribe who requests a copy. **TIMING:** Upon completion of all earth-disturbing activities, and prior to Rough Grading Final Inspection (Grading

Ordinance SEC 87.421.a.2), the report shall be completed. **MONITORING:** [PDS, PPD] shall review the report or field monitoring memo for compliance with the project MMRP, and inform [DPW, PDCI] that the requirement is completed.

4. **BIO#2–TEMPORARY FENCING [PDS, FEE]**

INTENT: In order to prevent inadvertent disturbance to disturbed wetland, southern coast live oak riparian forest and southern riparian woodland, temporary construction fencing shall be installed. **DESCRIPTION OF REQUIREMENT:** Prior to the commencement of any grading and/or clearing in association with this grading plan, temporary orange construction fencing shall be placed to protect from inadvertent disturbance of all areas of disturbed wetland, southern coast live oak riparian forest and southern riparian woodland that do not allow grading, brushing or clearing. The placement of such fencing shall be approved by the PDS, Permit Compliance Section. Upon approval, the fencing shall remain in place until the conclusion of grading activities after which the fencing shall be removed. **DOCUMENTATION:** The applicant shall provide evidence that the fencing has been installed and have a California licensed surveyor certify that the fencing is located on the boundary of the Major Use Permit boundaries where adjacent to disturbed wetland, southern coast live oak riparian forest and southern riparian woodland. The applicant shall submit photos of the fencing along with the certification letter to the [PDS, PCC] for approval. **TIMING:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances the fencing shall be installed, and shall remain for the duration of the grading and clearing. **MONITORING:** The [PDS, PCC] shall either attend the preconstruction conference and approve the installation of the temporary fencing, or review the certification and pictures provided by the applicant.”

5. **BIO#3–RESOURCE AVOIDANCE [PDS, FEE X2]**

INTENT: In order to avoid impacts to migratory birds, which is a sensitive biological resource pursuant to the Migratory Bird Treaty Act, a Resource Avoidance Area (RAA), shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading such that none will be allowed within 300 feet of habitat during the breeding season of the raptor and general birds. The breeding season is defined as occurring between February 1st and August 31st. The Director of PDS [PDS, PCC] may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Wildlife, provided that no raptors or migratory bird are present in the vicinity of the brushing, clearing or grading as demonstrated by a survey completed no more than 72-hours prior to proposed clearing or grading. **DOCUMENTATION:** The applicant shall provide a letter of agreement with this condition; alternatively, the applicant may submit a written request for waiver of this condition. Although, No Grading shall occur within the RAA until concurrence is received from the County and the Wildlife Agencies. **TIMING:** Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. **MONITORING:** The [DPW, PDCI] shall not allow any grading in the RAA during the specified dates, unless a concurrence from the [PDS, PCC] is received. The [PDS, PCC] shall review the concurrence letter.”

6. CULT-GR#3–ARCHAEOLOGICAL MONITORING – PRECONSTRUCTION MEETING

INTENT: In order to comply with the County of San Diego Guidelines for Significance – Cultural Resources, an Archaeological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The County approved Project Archaeologist and Luiseno Native American Monitor shall attend the pre-construction meeting with the contractors to explain and coordinate the requirements of the archaeological monitoring program. The Project Archaeologist and Luiseno Native American Monitor shall monitor the original cutting of native soils in all areas identified for development including off-site improvements. The archaeological monitoring program shall comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources. **DOCUMENTATION:** The applicant shall have the contracted Project Archeologist and Luiseno Native American attend the preconstruction meeting to explain the monitoring requirements. **TIMING:** Prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** The [DPW, PDCI] shall confirm the attendance of the approved Project Archaeologist.

7. CULT-GR#4–ARCHAEOLOGICAL MONITORING – DURING CONSTRUCTION

INTENT: In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, a Cultural Resource Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist and Luiseno Native American Monitor shall monitor the original cutting of native soils in all areas identified for development including off-site improvements. The archaeological monitoring program shall comply with the following requirements during earth-disturbing activities:

- a. **Monitoring.** During the original cutting of native soils, the Project Archaeologist and Luiseno Native American Monitor shall be onsite as determined necessary by the Project Archaeologist. Inspections will vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features. The frequency and location of inspections will be determined by the Project Archaeologist in consultation with the Luiseno Native American Monitor. Monitoring of the cutting of native soils will be determined by the Project Archaeologist in consultation with the Luiseno Native American Monitor.
- b. **Inadvertent Discoveries.** In the event that previously unidentified potentially significant cultural resources are discovered:
 1. The Project Archaeologist or the Luiseno Native American monitor shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources.
 2. At the time of discovery, the Project Archaeologist shall contact the PDS Staff Archaeologist.
 3. The Project Archaeologist, in consultation with the PDS Staff Archaeologist and the Luiseno Native American Monitor, shall determine the significance of the discovered resources.

4. Construction activities will be allowed to resume in the affected area only after the PDS Staff Archaeologist has concurred with the evaluation.
5. Isolates and clearly non-significant deposits shall be minimally documented in the field. Should the isolates and/or non-significant deposits not be collected by the Project Archaeologist, then the Luiseno Native American monitor may collect the cultural material for transfer to a Tribal Curation facility or repatriation program.
6. If cultural resources are determined to be significant, a Research Design and Data Recovery Program (Program) shall be prepared by the Project Archaeologist in consultation with the Luiseno Native American Monitor. The County Archaeologist shall review and approve the Program, which shall be carried out using professional archaeological methods. The Program shall include (1) reasonable efforts to preserve (avoidance) "unique" cultural resources or Sacred Sites; (2) the capping of identified Sacred Sites or unique cultural resources and placement of development over the cap, if avoidance is infeasible; and (3) data recovery for non-unique cultural resources. The preferred option is preservation (avoidance).

c. Human Remains. If any human remains are discovered:

1. The Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist.
2. Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin. If the human remains are to be taken offsite for evaluation, they shall be accompanied by the Luiseno Native American monitor.
3. If the remains are determined to be of Native American origin, the NAHC shall immediately contact the Most Likely Descendant (MLD).
4. The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted.
5. The MLD may with the permission of the landowner, or their authorized representative, inspect the site of the discovery of the Native American human remains and may recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendants shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.
6. Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered.

D. Non-Compliance. In the event that required conditions are not complied with, consultation with consulting tribes (Pala, Pechanga, and Rincon) will be required to determine appropriate measures to mitigate for non-compliance.

DOCUMENTATION: The applicant shall implement the Archaeological Monitoring Program pursuant to this condition. **TIMING:** The following actions shall occur throughout the duration of the earth disturbing activities. **MONITORING:** The [DPW, PDCI] shall make sure that the Project Archeologist is on-site performing the monitoring duties of this condition. The [DPW, PDCI] shall contact the [PDS, PPD] if the Project Archeologist or applicant fails to comply with this condition.

8. **BIO#5–OPEN SPACE SIGNAGE [PDS, FEE]**

INTENT: In order to protect the onsite open space for PDS2018-MUP-74-165W1, signage shall be installed. **DESCRIPTION OF REQUIREMENT:** The permanent open space signs shall be placed along the open space boundary as shown in the Biological Resources Report Dated August 2019 prepared by REC Consultants, Inc., plot plans, and the approved Conceptual Grading and Development Plan for PDS2018-MUP-74-165W1.

- a. Evidence shall be site photos and a statement from a California Registered Engineer, or licensed surveyor that the permanent open space signs have been installed.
- b. The signs must be corrosion resistant, a minimum of 6” x 9” in size, on posts not less than three (3) feet in height from the ground surface, and must state the following:

**Sensitive Environmental Resources
Area Restricted by Easement**

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions contact the County of San Diego, Planning & Development Services
Reference: PDS2018-MUP-74-165W1

DOCUMENTATION: The applicant shall install the signage and provide the documentation photos and certification statement to the [PDS, PCC]. **TIMING:** Prior to the occupancy of any structure or use of the premises, and prior to Final Grading Release ([Grading Ordinance Sec. 87.421.a.3](#)) the signage shall be installed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition.

9. **BIO#6–EASEMENT AVOIDANCE [PDS, FEE]**

INTENT: In order to protect sensitive resources, pursuant to [County Grading Ordinance Section 87.112](#) the open space easements shall be avoided. **DESCRIPTION OF REQUIREMENT:** The easement indicated in the Biological Resources Report dated August 2019 prepared by REC Consultants, Inc. is for the protection of sensitive environmental resources, coast live oak woodland and southern riparian woodland, and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. It is unlawful to grade or clear within an open space easement, any disturbance shall constitute a violation of the [County Grading Ordinance Section 87.112](#) and will result in enforcement action and restoration. The only exceptions to this prohibition are:

- a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard.

While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the applicable fire code of the Fire Authority Having Jurisdiction and the Memorandum of Understanding dated February 26, 1997, <http://www.sdcounty.ca.gov/PDS/docs/MemoofUnder.pdf>) between the wildlife agencies and the fire districts and any subsequent amendments thereto. b. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of PDS, DPW or DPR.

DOCUMENTATION: The applicant shall provide a letter statement to the [PDS, PCC] stating that all Sensitive Resource Easements were avoided during the grading construction, and that no impacts or encroachment into the open space occurred. **TIMING:** Prior to Final Grading Release the letter verifying the easements were not disturbed shall be submitted. **MONITORING:** The [DPW, PDCI] shall not allow any grading, clearing or encroachment into the open space easement.”

10. **CULT-GR#5-ARCHAEOLOGICAL MONITORING – FINAL GRADING**

INTENT: In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, an Archaeological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist shall prepare a final report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program if cultural resources were encountered during earth-disturbing activities. The report shall include the following, if applicable:

- a. Department of Parks and Recreation Primary and Archaeological Site forms.
- b. Daily Monitoring Logs
- c. Evidence that all cultural materials have been conveyed as follows:
 - (1) Evidence that all prehistoric materials collected during the archaeological monitoring program have been submitted to a San Diego curation facility or a culturally affiliated Native American Tribal curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility or culturally affiliated Native American Tribal curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the prehistoric archaeological materials have been received and that all fees have been paid.

or

Evidence that all prehistoric materials collected during the grading monitoring program have been repatriated to a Native American group of appropriate tribal

affinity and shall be accompanied by payment of the fees necessary, if required. Evidence shall be in the form of a letter from the Native American tribe to whom the cultural resources have been repatriated identifying that the archaeological materials have been received.

- (2) Historic materials shall be curated at a San Diego curation facility and shall not be curated at a Tribal curation facility or repatriated. The collections and associated records, including title, shall be transferred to the San Diego curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the historic materials have been received and that all fees have been paid.

- d. If no cultural resources are discovered, a Negative Monitoring Report must be submitted stating that the archaeological monitoring activities have been completed. Grading Monitoring Logs must be submitted with the negative monitoring report.

DOCUMENTATION: The applicant's archaeologist shall prepare the final report and submit it to [PDS, PPD] for approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center (SCIC), the Rincon Band of Luiseno Indians, and any culturally-affiliated Tribe who requests a copy. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final report shall be prepared. **MONITORING:** [PDS, PPD] shall review the final report for compliance with this condition and the report format guidelines. Upon acceptance of the report, [PDS, PPD] shall inform [PDS, LDR] and [DPW, PDCI], that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then [PDS, PPD] shall inform [PDS or DPW FISCAL] to release the bond back to the applicant.

11. ~~CULT#6~~—CULTURAL RESOURCES MONITORING REPORT

INTENT: In order to ensure that the Archaeological Monitoring occurred during the earth-disturbing activities into native soils, a final report shall be prepared.

DESCRIPTION OF REQUIREMENT: A final Archaeological Monitoring and Data Recovery Report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program shall be prepared. The report shall include the following items:

- a. DPR Primary and Archaeological Site forms.
- b. Daily Monitoring Logs
- c. Evidence that all cultural materials collected during the survey, testing, and archaeological monitoring program have been conveyed as follows:

- (1) All prehistoric cultural materials shall be curated at a San Diego curation facility or a culturally affiliated Tribal curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made

available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility or culturally affiliated Tribal curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the prehistoric archaeological materials have been received and that all fees have been paid.

or

Evidence that all prehistoric materials collected during the archaeological monitoring program have been returned to a Native American group of appropriate tribal affinity. Evidence shall be in the form of a letter from the Native American tribe to whom the cultural resources have been repatriated identifying that the archaeological materials have been received.

- (2) Historic materials shall be curated at a San Diego curation facility as described above and shall not be curated at a Tribal curation facility or repatriated. The collections and associated records, including title, shall be transferred to the San Diego curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the historic materials have been received and that all fees have been paid.

- d. If no cultural resources are discovered, a Negative Monitoring Report must be submitted stating that the grading monitoring activities have been completed. Grading Monitoring Logs must be submitted with the negative monitoring report.

DOCUMENTATION: The applicant's archaeologist shall prepare the final report and submit it to the [PDS, PPD] for approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center (SCIC), the Rincon Band of Luiseno Indians, and any culturally-affiliated Tribe who requests a copy. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final report shall be prepared. **MONITORING:** The [PDS, PPD] shall review the final report for compliance this condition and the report format guidelines. Upon acceptance of the report, [PDS, PPD] shall inform [PDS, LDR] and [DPW, PDCI], that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then [PDS, PPD] shall inform [PDS or DPW FISCAL] to release the bond back to the applicant.

2. The payment of the Transportation Impact Fee, which will be required at issuance of building permits of applicable phases of the project, will be required to demonstrate conformance with the County of San Diego Transportation Impact Fee Ordinance. Pursuant to Section 77.210 of the County of San Diego Transportation Impact Fee

Ordinance, a sanctuary of the proposed church is exempt from the Regional Transportation Congestion Improvement Program (RTCIP) Impact Fee.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws, regulations, ordinances, and the General Plan and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

1. **NOISE#1–ON-GOING SOUND LEVEL COMPLIANCE: [PDS, CODES] [OG]**

INTENT: In order to comply with the applicable sections of Title 3, Division 6, Chapter 4 (County of San Diego Noise Ordinance), the site shall comply with the requirements of this condition. **DESCRIPTION OF REQUIREMENT:** The project shall conform to the following requirements: Major Use Permit associated activities shall comply with the one-hour average sound level limit property line requirement pursuant to the County Noise Ordinance, Section 36.404. This includes (but not limited to) generator and air conditioner units. **DOCUMENTATION:** The property owner(s) and applicant shall conform to the ongoing requirements of this condition. Failure to conform to this condition may result in disturbing, excessive or offensive noise interfering with a person's right to enjoy life and property and is detrimental to the public health and safety pursuant to the applicable sections of Chapter 4. **TIMING:** Upon establishment of the use, this condition shall apply for the duration of the term of this permit. **MONITORING:** The [PDS, CODES] is responsible for enforcement of this permit.

2. **NOISE#2–TEMPORARY CONSTRUCTION NOISE: [DPW, PDCI].**

INTENT: In order to minimize temporary construction noise for grading operations associated with the project subdivision and to comply with County Noise Ordinance 36.409. **DESCRIPTION OF REQUIREMENT:** The project shall comply with the following temporary construction noise control measures:

- a. Turn off equipment when not in use.
- b. Equipment used in construction should be maintained in proper operating condition, and all loads should be properly secured, to prevent rattling and banging.
- c. Use equipment with effective mufflers
- d. Minimize the use of back up alarm.
- e. Equipment staging areas should be placed at locations away from noise sensitive receivers.
- f. Limiting hours of construction to normal weekday working hours (to the best extent possible).

- g. Comply with Noise Ordinance Sections 36.408, 409 and 410.

DOCUMENTATION: The applicant shall comply with the temporary construction noise measures of this condition. **TIMING:** The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDCI] shall make sure that the grading contractor complies with the construction noise control measures of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the applicant fails to comply with this condition.

3. NOISE#3–NOISE REQUIREMENT [PDS, FEE X2]

INTENT: In order to minimize exterior sound levels from the project site on the adjacent parcels and to comply with the [County of San Diego Noise Ordinance 36.404](#) as evaluated in the [County of San Diego Noise Guidelines for Determining Significance](#), the following design measures shall be implemented on the building plans and in the site design.

DESCRIPTION OF REQUIREMENT: The following design elements and noise attenuation measures shall be indicated on the building plans and made conditions of its issuance:

- a. Include a plan detail that states the following: “Project Conditions: The outdoor events are limited to light ceremony music and officiant. The ceremony areas will face toward the sloping hill or the winery building to ensure noise attenuation.”
- b. Include a plan detail that states the following: “Project Conditions: All events with amplified music will be limited to inside the proposed Venues and would promptly end by 10:00pm.”
- c. Include a plan detail that states the following: “Hours of operations would be limited to 10:00 am to 10:00 pm, where no music, live or recorded would occur after 10:00 pm”.
- d. General Note: If substantial new information and/or major project design changes occur to what was previously assessed, then additional noise review may be necessary to ensure noise ordinance compliance.

DOCUMENTATION: The applicant shall place the design elements, or notes on the building plans and submit the plans to [PDS, BPPR] for review and approval. **TIMING:** Prior to issuance of any building permit, the design elements and noise attenuation measures shall be incorporated into the building plans. **MONITORING:** The [PDS, BPPR] shall verify that the specific note(s), and design elements, and noise attenuation measures have been placed on all sets of the building plans and made conditions of its issuance.

4. DEH#1–VECTOR CONTROL MAINTENANCE

INTENT: In order to ensure that the on-site ponds are maintained and to comply with vector control best management practices. **DESCRIPTION OF REQUIREMENT:** The on-site ponds proposed for the project shall be maintained. **DOCUMENTATION:** The

applicant shall ensure either through a vector management plan or approval of a similar document by the [DEH, VCT] that the on-site ponds shall be adequately maintained. This documentation may be submitted in association with the applicable wastewater discharge permit or approval documentation from the Regional Water Quality Control Board. **TIMING:** Upon establishment of the use and upon the approval from the Regional Water Quality Control Board for the wastewater discharge permit or approval documentation, this condition shall apply for the duration of the term of this permit. **MONITORING:** The applicant is responsible for maintenance of the on-site ponds and the [DEH, VCT] shall review ongoing maintenance practices of the on-site ponds for compliance.

5. DEH#2–WASTEWATER DISCHARGE

INTENT: In order to comply with wastewater discharge requirements regulated by the Regional Water Quality Control Board. **DESCRIPTION OF REQUIREMENT:** The applicant shall submit documentation from the Regional Water Quality Control Board to the Department of Environmental Health demonstrating that a wastewater discharge permit or other similar documentation of approval has been obtained from the Regional Water Quality Control Board for the proposed winery. **TIMING:** Prior to any occupancy of the property associated with this Major Use Permit, the documentation from the Regional Water Quality Control Board shall be obtained. **MONITORING:** DEH and the [PDS, PM] shall review the submitted documentation for the compliance with this condition.

6. FIRE#1–FIRE PROTECTION PLAN CONFORMANCE

INTENT: In order to comply with Fire Code requirements and promote Fire Safety. **DESCRIPTION OF REQUIREMENT:** The location of buildings and materials of buildings shall comply with the building location and material requirements outlined in approved Fire Protection Plan dated June 28, 2018 and approved by North County Fire Protection District on July 17, 2019. **DOCUMENTATION:** The applicant shall show that the future building permit requirements as detailed in the Fire Protection Plan are reflected on the building permit plans. **TIMING:** Prior to issuance of a building permit, the building plans shall include material requirements and information as outlined in the Fire Protection Plan. **MONITORING:** The [PDS, BPR] shall review the building permit application and plans to ensure that the plans are compliant with the Fire Protection Plan.

7. LNDSCP#1–LANDSCAPE DOCUMENTATION PACKAGE

INTENT: In order to provide adequate Landscaping that provides screening, and to comply with the Fallbrook Design Guidelines, a landscape plan shall be prepared. **DESCRIPTION OF REQUIREMENT:** The Landscape Plans shall be prepared pursuant to the [COSD Water Efficient Landscape Design Manual](#) and the [COSD Water Conservation in Landscaping Ordinance](#), the [COSD Off-Street Parking Design Manual](#), the COSD Grading Ordinance, the Fallbrook Design Guidelines. All Plans shall be prepared by a California licensed Landscape Architect, Architect, or Civil Engineer, and include the following information:

- a. Indication of the proposed width of any adjacent public right-of-way, and the locations of any required improvements and any proposed plant materials to be installed or planted therein. The applicant shall also obtain a permit approving the variety, location, and spacing of all trees proposed to be planted within said right(s)-of-way. A copy of this permit and a letter stating that all landscaping within the said right(s)-of-way shall be maintained by the landowner(s) shall be submitted

- to PDS. Provide proof of an Encroachment Maintenance and Removal Agreement being accepted by County DPW Operations for all tree planting within the public right-of-way along Gird Road.
- b. A complete planting plan including the names, sizes, and locations of all plant materials, including trees, shrubs, and groundcover. Wherever appropriate, native or naturalizing plant materials shall be used which can thrive on natural moisture. These plants shall be irrigated only to establish the plantings.
 - c. A complete watering system including the location, size, and type of all backflow prevention devices, pressure, and non-pressure water lines, valves, and sprinkler heads in those areas requiring a permanent, and/or temporary irrigation system.
 - d. The watering system configuration shall indicate how water flow, including irrigation runoff, low head drainage, overspray or other similar conditions will not impact adjacent property, non-irrigated areas, structures, walkways, roadways or other paved areas, including trails and pathways by causing water to flow across, or onto these areas.
 - e. Spot elevations of the hardscape, building and proposed fine grading of the installed landscape.
 - f. The location and detail of all walls, fences, and walkways shall be shown on the plans, including height from grade and type of material. A lighting plan and light standard details shall be included in the plans (if applicable) and shall be in compliance with the [County's Light Pollution Code](#).
 - g. No landscaping material or irrigation or other infrastructure shall be located within a proposed trail easement or designated pathway.
 - h. Parking areas shall be landscaped and designed pursuant to the [Off-street Parking Design Manual](#) and the County Zoning Ordinance Section 6793.b
 - i. Additionally, the following items shall be addressed as part of the Landscape Documentation Package: Note 5 on Sheet 15 of the Conceptual Landscape Plans received on August 29, 2019 describes how the fifteen-foot Landscaped Street Edge Zone shall be planted in accordance with the Fallbrook Design Guidelines Section B.2.3.a. Final Landscape Plans shall demonstrate compliance with these Guidelines in relationship to the Landscaped Street Edge Zone.
 - j. Final Landscape Plans shall identify any existing trees to be removed by species, location and trunk diameter.
 - k. Invasive species, such as *Limonium sinuatum*, shall not be proposed, as mandated by the California Invasive Plant Council and Appendix J of the County's Water Efficient Landscape Design Manual.
 - l. All vegetated BMP's shall be planted in accordance with the Watershed Protection Ordinance, as well as the BMP Design Manual. All runoff associated with the application of herbicides (or other chemicals) to eradicate existing vegetation shall be managed to prevent an adverse effect on water quality as it relates to the waterway/floodway within the RPO buffer, and as required by the Watershed Protection Ordinance and BMP Design Manual.
 - m. Final Landscape Plans shall be consistent with the findings and recommendations of the Biological Resources Letter Report prepared by REC Consultants, Inc., dated August 2019.
 - n. Final Landscape Plans shall be consistent with the Fire Protection Plan dated June 28, 2018 and approved by the North County Fire Protection District on July 17, 2019.

- o. Coordinate with the Engineer of Work to ensure that any trees proposed underneath overhead electrical lines are in compliance with all requirements of the local utility agency, and with the requirements outlined on page 6 of the Fallbrook Design Review Checklist.

DOCUMENTATION: The applicant shall prepare the Landscape Plans using the [Landscape Documentation Package Checklist](#) (PDS Form #404), and pay all applicable review fees. **TIMING:** Prior to approval of any plan, issuance of any permit, and prior to use of the premises in reliance of this permit, the Landscape Documentation Package shall be prepared and approved. **MONITORING:** The [PDS, LA] and [DPR, TC, PP] shall review the Landscape Documentation Package for compliance with this condition.

8. DRNG#1–LINES OF INUNDATION COMPLIANCE

INTENT: In order to provide protection from flood damage for the structures and to comply with the [County Flood Damage Prevention Ordinance \(Title 8, Division 11 Sec 501 \(c\)\(2\)\)](#), [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), all on-site structures located within the inundation area shall be elevated one foot above the 100-year base flood elevation (BFE). **DESCRIPTION OF REQUIREMENT:** The building plans shall indicate that all proposed on-site structures located within the inundation area will be raised one-foot above the 100-year base flood elevation.

DOCUMENTATION: The applicant shall indicate on the building plans that the requirement above has been met. **TIMING:** Prior to approval of any building plan and the issuance of any building permit associated with the structures referenced above, compliance with this condition is required. **MONITORING:** The [PDS, BPPR] shall review the building plans for consistency with this condition.

9. STRMWTR#1–STORMWATER MAINTENANCE DOCUMENTATION

In order to promote orderly development and to comply with the [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), the maintenance agreements shall be completed. **DESCRIPTION OF REQUIREMENT:**

- a. Process a Maintenance Notification Agreement to assure maintenance of the Category 1 Structural BMPs to the satisfaction of the Director of DPW and/or PDS. The Maintenance Notification Agreement shall be signed, notarized and recorded by the applicant.

DOCUMENTATION: The applicant shall process the agreement forms with [PDS, LDR] and pay any deposit and applicable review fees. **TIMING:** Prior to approval of any grading or improvement plan or construction permit, prior to use of the property in reliance of this permit; execution of the recorded agreements and securities shall be completed. **MONITORING:** The [PDS, LDR] shall review the agreements/mechanisms for consistency with the condition and County Standards.

10. STRMWTR#2–EROSION CONTROL

INTENT: In order to Comply with all applicable stormwater regulations the activities proposed under this application are subject to enforcement under permits from the [State](#)

[Construction General Permit, Order No. 2009-00090-DWQ](#), or subsequent order and the [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), and all other applicable ordinances and standards for this priority project.

DESCRIPTION OF REQUIREMENT: The applicant shall maintain the appropriate on-site and offsite Best Management Practices pursuant to the approved Stormwater Quality Management Plan (SWQMP) and Erosion Control Plan including, but not limited to the erosion control measures, irrigation systems, slope protection, drainage systems, desilting basins, energy dissipators, and silt control measure.

- a. An agreement and instrument of credit shall be provided for an amount equal to the cost of this work as determined or approved by the [PDS, LDR], in accordance with the [County of San Diego Grading Ordinance Section 87.304](#). The cash deposit collected for grading, per the grading ordinance, will be used for emergency erosion measures. The developer shall submit a letter to [PDS, LDR] authorizing the use of this deposit for emergency measures.
- b. An agreement in a form satisfactory to County Counsel shall accompany the Instrument of Credit to authorize the County to unilaterally withdraw any part of or all the Instrument of Credit to accomplish any of the work agreed to if it is not accomplished to the satisfaction of the County PDS and/or DPW by the date agreed.

DOCUMENTATION: The applicant shall process an Erosion Control Plan and provide the letter of agreement and any additional security and/or cash deposit to the [PDS, LDR].

TIMING: Prior to approval of any grading or improvement plan or construction permit, and prior to use of the property in reliance of this permit, the Erosion Control Plan shall be approved and the agreement and securities shall be executed. **MONITORING:** The [PDS, LDR] shall ensure that the Erosion Control Plan adequately satisfies the requirements of the conditions to potentially perform the required erosion control and stormwater control measures proposed on all construction and grading plans. [DPW, PDCI] shall use the securities pursuant to the agreement to implement and enforce the required stormwater and erosion control measures pursuant to this condition during all construction phases as long as there are open and valid permits for the site.

11. DRNG#2–FLOODPLAIN COMPLIANCE

INTENT: As required by the Code of Federal Regulations (CFR) and to protect persons and property from harm in an area of special flood hazard in the unincorporated County by ensuring compliance with the more restrictive of the [Flood Damage Prevention Ordinance \(FDPO\), Section 811.101](#), et seq. of the [San Diego County Code, of Regulatory Ordinances \(County Code\) or the National Flood Insurance Program requirements set forth at 44 Code of Federal Regulations, \(CFR\) Section 60.1 et seq.](#) References to the 44 CFR Section 60.1 et seq. are for convenience only and are not intended to limit the applicability of other federal laws or regulations that comprise the National Flood Insurance Program. **DOCUMENTATION:** The applicant shall complete the following:

DESCRIPTION OF REQUIREMENT: The project site contains floodplain and floodway as indicated on County Floodplain Map panels #426-1713, 426-1707, and 430-

1707 Areas of County mapped floodplain are required to be developed and used in accordance with restrictions set forth in the County's Flood Damage Prevention Ordinance for "special flood hazard areas." These requirements were developed to allow for continued County participation in the National Flood Insurance Program (NFIP) in accordance with 44 CFR 60.1 et seq. Consistent with these requirements, the following must be complied with:

1. Determine the base flood elevation (BFE) and flood plain boundary during the occurrence of the base flood for Live Oak Creek both before and after all proposed work, through hydraulic analyses acceptable to County Department of Public Works (DPW) Flood Control Section and performed by a California licensed civil engineer in accordance with standard engineering practice, to the satisfaction of the County Flood Plain Administrator, Demonstrate compliance with all NFIP and FDPO requirements to the satisfaction of the County Flood Plain Administrator and DPW Flood Control.
2. Demonstrate to the satisfaction of the County Flood Plain Administrator through acceptable hydrologic and hydraulic analyses, acceptable to DPW Flood Control and performed by a California licensed engineer in accordance with standard engineering practice, that all proposed structures will be reasonably safe from flooding of the one percent annual chance event as calculated following the methodology described in the County Hydrology Manual.
3. All structures to be constructed or substantially improved shall comply with the more restrictive of the County's Flood Damage Prevention Ordinance or the criteria set forth in 44 CFR 59.1 et seq.
4. Show and label existing drainage easements on the plans.
5. Elevation Certificates for structures located within the Special Flood Hazard Area (SFHA).

TIMING: Elevation Certificates required prior to certificate of occupancy or final sign-off by Building Dept., all other items required prior to approval of any building plan or issuance of any building permit. **MONITORING:** The [PDS, LDR, DPW, FCE] shall review the hydraulic analysis, and associated plans and maps for compliance with this condition.

12. ROADS#1–SIGHT DISTANCE

INTENT: In order to provide an unobstructed view for safety while exiting the property and accessing a public road from the site, and to comply with the Design Standards of Section 6.1.E of the [County of San Diego Public Road Standards](#), an unobstructed sight distance shall be verified. **DESCRIPTION OF REQUIREMENT:**

- a. A registered civil engineer or a licensed land surveyor provides a certified signed statement that: "There is _____feet of unobstructed intersectional sight distance in both directions (or North Bound (NB) direction) from the proposed driveway along **Gird Road (SA 80)** in accordance with the methodology described in Table 5 of the March 2012 County of San Diego Public Road Standards. These

sight distances exceed the required intersectional Sight Distance requirements of _____ as described in Table 5 based on a speed of _____, which I have verified to be the higher of the prevailing speed or the minimum design speed of the road classification. I have exercised responsible charge for the certification as defined in Section 6703 of the Professional Engineers Act of the California Business and Professions Code.”

- b. If the lines of sight fall within the existing public road right-of-way, the engineer or surveyor shall further certify: "Said lines of sight fall within the existing right-of-way and a clear space easement is not required."

DOCUMENTATION: The applicant shall complete the certifications and submit them to the [PDS, LDR] for review. **TIMING:** Prior to occupancy of the first structure built in association with this permit, and prior to final grading release, or use of the premises in reliance of this permit, and annually after that until the project is completely built, the sight distance shall be verified. **MONITORING:** The [PDS, LDR] shall verify the sight distance certifications.

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

on _____

Ashley Smith, Planning Manager
Project Planning Division