

ATTACHMENT A
Creekside Assisted Living
Summary of Potential Impact and Mitigation Measures

Biological Resources

Impacts to 0.06 acre of Diegan Coastal Sage Scrub – *Baccharis* dominated and 0.94 acre of non-native grassland would be a significant impact (**Impact BIO-1a and Impact BIO-1b**) and would require mitigation. These impact areas are located outside of the Focused Planning Area (FPA) of the City' Draft Subarea Plan for the Multiple Habitat Conservation Program. Implementation of mitigation measures MM-BIO-1a and MM-BIO-1b would reduce the impacts to below a level of significance.

MM-BIO-1a Impact to 0.06 acre of Diegan coastal sage scrub-*Baccharis* dominated would be mitigated at a 1:1 ratio for a total of 0.06 acre of mitigation. Mitigation would occur through the purchase of land off site for mitigation or the purchase of mitigation bank credits. Proof of mitigation land purchase or mitigation bank credit purchase shall be presented prior to issuance of a grading permit.

MM-BIO-1b Impact to 0.94 acre of non-native grassland would be mitigated at a 0.5:1 ratio for a total of 0.47 acre of mitigation. Mitigation would occur through the purchase of land off site for mitigation or the purchase of mitigation bank credits. Proof of mitigation land purchase or mitigation bank credit purchase shall be presented prior to issuance of a grading permit.

Due to the proximity of development to riparian woodland, potential noise impacts on this species could occur during project construction. Such impacts are potentially significant (**Impact BIO-2**). Implementation of mitigation measure MM-BIO-2 would reduce the impacts to below a level of significance.

MM-BIO-2 No construction activities shall result in noise levels exceeding 60 dB(A) hourly average from March 15 through August 15 within occupied least Bell's vireo habitat (as determined by a qualified avian biologist based on USFWS protocol surveys). An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with ESA-listed animal species) at least two weeks prior to commencement of construction activities. Prior to the commencement of construction activities during the least Bell's vireo breeding season (March 15 – August 15), areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist.

OR

At least two weeks prior to the commencement of construction activities that occur between March 15 – August 15, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that construction noise levels will not exceed 60 dB(A) hourly average at the edge of potentially occupied least Bell's vireo habitat (as determined by a USFWS-permitted biologist based on USFWS protocol surveys). Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring shall be conducted at the edge of suitable least Bell's vireo habitat to ensure that noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques are determined to be inadequate by the qualified

acoustician or biologist, then construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of breeding season (August 16). Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of suitable habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the wildlife agencies, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

The project site has the potential to impact active bird nests protected under the Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code if vegetation is removed or ground disturbing activities occur during the nesting season (February 1 to September 15). This represents a significant impact (**Impact BIO-3**), and mitigation is required. Implementation of mitigation measure MM-BIO-3 would reduce this impact to below a level of significance.

MM-BIO-3 To avoid direct impacts to raptors and/or native/migratory birds, removal of habitat that supports active nests in the proposed area of disturbance should occur outside of the breeding season for these species (February 1 to September 15). If removal of habitat in the proposed area of disturbance must occur during the breeding season, a qualified biologist shall conduct a pre-construction survey to determine the presence or absence of nesting birds in the proposed area of disturbance. The pre-construction (precon) survey shall be conducted within ten (10) calendar days prior to the start of construction activities (including removal of vegetation). If nesting birds are observed, a letter report or mitigation plan in conformance with applicable State and Federal Law (i.e. appropriate follow up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) shall be prepared and include proposed measures to be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. The report or mitigation plan shall be submitted to the California Department of Fish and Wildlife and/or the United States Fish and Wildlife Service as applicable for review and approval and implemented to the satisfaction of those agencies. The project biologist shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction. If nesting birds are not detected during the precon survey, no further mitigation is required.

Since construction activities will occur in close proximity to suitable special-status species habitat and potential aquatic resource areas, there is a potential for inadvertent impact to these habitats. This represents a potentially significant impact (**Impact BIO-4**), and mitigation is required. Implementation of mitigation measure MM-BIO-4 would reduce the impacts to below a level of significance.

MM-BIO-4 A biologist shall be contracted to perform regular random checks (at minimum once a month) to ensure implementation of the following monitoring requirements and BMPs. Monitoring reports and a post-construction monitoring report will be prepared to document compliance with these requirements.

- To prevent inadvertent disturbance to areas outside the limits of work, the construction limits shall be clearly demarcated (e.g., installation of flagging or temporary visibility construction fence) prior to ground disturbance activities and all construction activities, including equipment staging and maintenance shall be conducted within the marked disturbance limits. The work limit delineation will be maintained throughout project construction and workers will be instructed to avoid the sensitive habitats and marked areas.

- Biologist will flush special-status species (i.e., avian or other mobile species) from suitable habitat areas to the maximum extent practicable immediately prior to initial vegetation removal activities.
- Construction vehicles shall not exceed 15 miles per hour on unpaved roads adjacent to project site or the right-of-way accessing the site.
- If trash and debris need to be stored overnight during the maintenance activities, fully covered trash receptacles that are animal-proof and weather-proof will be used by the maintenance contractor to contain all food, food scraps, food wrappers, beverage containers, and other miscellaneous trash. Alternatively, standard trash receptacles may be used during the day, but must be removed each night.
- Cut vegetation or other trash and debris shall not be placed or stored in or directly adjacent to potentially jurisdictional aquatic resources (including riparian habitat). Such materials shall be stored, if necessary, where it cannot be washed by rainfall or runoff into the potentially jurisdictional areas. When maintenance activities are completed, any excess materials or debris will be removed from the project site.
- Temporary structures and storage of construction materials will not be located in potentially jurisdictional aquatic resource areas, including riparian habitat.
- Staging/storage areas for construction equipment and materials will not be located in potentially jurisdictional aquatic resource areas, including riparian habitat.
- The operator will not permit pets on or adjacent to the construction site.
- Spoil sites will not be located within 30 feet from the boundaries of jurisdictional waters or in locations that may be subject to high storm flows, where spoils might be washed back into drainages.
- Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil, or other petroleum products, or any other substances that could be hazardous to vegetation or wildlife resources, resulting from project-related activities, will be prevented from contaminating the soil and/or entering avoided jurisdictional waters.
- No equipment maintenance will occur within 100 feet of jurisdictional waters and no petroleum products or other pollutants from the equipment will be allowed to enter these areas or enter any off-site state-jurisdictional waters under any flow.

The project has the potential for adverse impacts on adjacent riparian habitats through the introduction of non-native invasive plant species through site landscaping. Impacts are potentially significant (**Impact BIO-5**). Implementation of mitigation measure MM-BIO-5 would reduce the impacts to below a level of significance.

MM-BIO-5 To avoid indirect impacts on adjacent sensitive habitats, final landscape plans will be reviewed by a qualified biologist to ensure that no invasive plant materials are included in planting plans.

Cultural Resources

It is possible that subsurface cultural deposits are still present under the surface and construction activities could impact these resources if they are present. This represents a significant impact and mitigation is required. (**Impact CR-1**). The following mitigation measures apply to grading and construction activity that occurs within areas of previously-undisturbed soil and would be required as a condition of project approval:

MM-CR-1a Prior to the issuance of a Grading Permit, or ground-disturbing activities, the Applicant/Owner shall enter into a Tribal Cultural Resource Treatment and Monitoring Agreement (also known as a pre-excavation agreement) with the San Luis Rey Band of Mission Indians, and/or another Traditionally and Culturally Affiliated Native American Tribe (“TCA Tribe”). The purpose of this agreement shall be to formalize protocols and procedures between the Applicant/Owner and the TCA Tribe for the protection and treatment of Native American human remains, funerary

objects, cultural and/or religious landscapes, ceremonial items, traditional gathering areas and other tribal cultural resources, located within and/or discovered during ground disturbing and/or construction activities for the proposed project, including any additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, preparation for wet and dry infrastructure, and all other ground disturbing activities.

MM-CR-1b The landowner shall relinquish ownership of all non-burial related tribal cultural resources collected during the grading monitoring program and from any previous archaeological studies or excavations on the project site to the TCA Tribe for proper treatment and disposition per the Cultural Resources Treatment and Monitoring Agreement. Any burial related tribal cultural resources (as determined by the Most Likely Descendant) shall be repatriated to the Most Likely Descendant as determined by the Native American Heritage Commission pursuant to California Public Resources Code Section 5097.98. If none of the TCA Tribes accept the return of the cultural resources, then the cultural resources will be subject to the curation requirements contained herein. Additionally, in the event that curation of tribal cultural resources is required by a superseding regulatory agency, curation shall be conducted by an approved facility and the curation shall be guided by California State Historic Resource Commissions Guidelines for the Curation of Archaeological Collections. The City of San Marcos shall provide the developer final curation language and guidance on the project grading plans prior to issuance of the grading permit, if applicable, during project construction. The applicant shall provide to the City written documentation from the TCA Tribe, the Most Likely Descendant, and/or the curation facility, whichever is most applicable, that the repatriation and/or curation have been completed.

MM-CR-1c Prior to the issuance of a Grading Permit or ground-disturbing activities, the Applicant/Owner or Grading Contractor shall provide a written and signed letter to the Development Services Department stating that a Qualified Archaeologist and TCA Native American monitor have been retained at the Applicant/Owner or Grading Contractor's expense to implement the monitoring program, as described in the Tribal Cultural Resource Treatment and Monitoring Agreement.

MM-CR-1d Prior to submittal of grading and/or improvement as-built plans, or prior to the issuance of any project Certificate of Occupancy, a monitoring report, which describes the results, analysis and conclusions of the archaeological monitoring program shall be submitted by the Qualified Archaeologist, along with the TCA Native American monitor's notes and comments, to the Planning Division Manager for approval. A copy of any submitted monitoring report shall be provided to the San Luis Rey Band of Mission Indians and any other TCA Tribe that requests the report.

MM-CR-1e The Qualified Archaeologist shall maintain ongoing collaborative consultation with the TCA Native American monitor during all ground disturbing activities. The requirement for the monitoring program shall be noted on all applicable construction documents, including demolition plans, grading plans, etc. The Applicant/Owner or Grading Contractor shall notify the Planning Division, preferably through e-mail, of the start and end of all ground disturbing activities.

MM-CR-1f The Qualified Archaeologist and TCA Native American Monitor shall attend all applicable pre-construction meetings with the General Contractor and/or associated Subcontractors to present the archaeological monitoring program. The Qualified Archaeologist and TCA Native American monitor shall be present on-site full-time during grubbing, grading and/or other ground disturbing activities, including the placement of imported fill materials or fill

used from other areas of the project site, to identify any evidence of potential archaeological or cultural resources. All fill materials shall be absent of any and all cultural resources. The Applicant/Owner or Grading Contractor may submit written documentation to the City to substantiate if any fill material is absent of cultural resources. Should the City concur that the fill material is absent of cultural resources, in consultation with a Qualified Archaeologist and/or the TCA Native American monitor, then no monitoring of that fill material is required.

MM-CR-1g

The Qualified Archaeologist or the TCA Native American monitor may halt ground disturbing activities if unknown archaeological artifact deposits or cultural features are discovered. Ground disturbing activities shall be directed away from these deposits to allow a determination of potential importance. Isolates and clearly non-significant deposits (as determined by the Qualified Archaeologist, in consultation with the TCA Native American monitor) will be minimally documented in the field, collected, and be given to the TCA Tribe so that they may be reburied at the site on a later date. If a determination is made that the unearthed artifact deposits or tribal cultural resources are considered potentially significant, the San Luis Rey Band of Mission Indians and/or the TCA Tribe referenced in CR-1 shall be notified and consulted with in regards to the respectful and dignified treatment of those resources. All sacred sites, significant tribal cultural resources and/or unique archaeological resources encountered within the project area shall be avoided and preserved as the preferred mitigation, if feasible. If, however, a data recovery plan is authorized by the City as the Lead Agency under CEQA, the contracted San Luis Rey Band of Mission Indians and/or the TCA Tribe referenced in CR-1 shall be notified and consulted regarding the drafting and finalization of any such recovery plan. For significant artifact deposits, tribal cultural resources or cultural features that are part of a data recovery plan, an adequate artifact sample to address research avenues previously identified for sites in the area will be collected using professional archaeological collection methods. If the Qualified Archaeologist collects such resources, the TCA Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the Qualified Archaeologist does not collect the cultural resources that are unearthed during the ground disturbing activities, the TCA Native American monitor, may at their discretion, collect said resources and provide them to the contracted TCA Tribe referenced in CR-1 for respectful and dignified treatment in accordance with the Tribe's cultural and spiritual traditions. If the Developer, the Qualified Archaeologist, and the TCA Tribe cannot agree on the significance or mitigation for such resources, these issues will be presented to the Planning Division Manager for decision. The Planning Division Manager shall make a determination based upon the provisions of the California Environmental Quality Act and California Public Resources Code Section 21083.2(b) with respect to archaeological resources, tribal cultural resources and shall take into account the religious beliefs, cultural beliefs, customs, and practices of the TCA Tribe. Notwithstanding any other rights available under law, the decision of the Planning Division Manager shall be appealable to the Planning Commission and/or City Council.

MM-CR-1h

As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Medical Examiner's Office. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Medical Examiner has made the necessary findings as to origin and disposition pursuant to Public Resources Code 5097.98. If such a discovery occurs, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment could occur as prescribed by law. By law, the

Medical Examiner will determine within two working days of being notified if the remains are subject to his or her authority. If the Medical Examiner recognizes the remains to be Native American, he or she shall contact the Native American Heritage Commission (NAHC), by telephone, within 24 hours. The NAHC will make a determination as to the Most Likely Descendent. If suspected Native American remains are discovered, the remains shall be kept in-situ, or in a secure location in close proximity to where they were found, and the examination of the remains shall only occur on-site in the presence of a TCA Native American monitor.

Geology/Soils

The majority of the onsite material is expected to have low to medium expansion potential. However, higher expansive soils may be encountered during the grading of the site. This represents a significant impact (**Impact GEO-1**), and mitigation is required. Implementation of mitigation measures (MM-GEO-1) will reduce the impact to below a level of significance:

- MM-GEO-1** The project applicant shall implement the geotechnical recommendations identified beginning on pages 16 – 32 of the Soils Report prepared by Leighton Associates for the project site. These recommendations address earthwork activities, temporary excavations, foundation and slab considerations, retaining wall design, concrete flatwork, and pavement design.

Due to the fact that the Pleistocene old alluvial floodplain deposits have an unproven/undetermined sensitivity there is a potential that the site could contain paleontological resources that could be disturbed during trenching activities for the project. This represents a potentially significant impact (**Impact GEO-2**) and mitigation is required. Implementation of mitigation measures MM-GEO-2 would reduce this impact to below a level of significance.

- MM-GEO-2** Prior to project grading the project applicant shall retain a qualified paleontologist to review the proposed project area to determine the potential for paleontological resources to be encountered. If there is a potential for paleontological resources to occur, the paleontologist shall identify the area(s) where these resources are expected to be present, and a qualified paleontological monitor shall be retained to monitor the initial cut in any areas that have the potential to contain paleontological resources.

Noise

Building facades are forecasted to be at 70 dBA CNEL for Receptors No. 3 and 4, which face E. Mission Road. This represents a significant impact (**Impact N-1**). Implementation of mitigation measure MM-N-1 will reduce this impact to below a level of significance.

- MM-N-1** Prior to the issuance the building permit, a final noise assessment is required since the building facades are above 60 dBA CNEL. This final report would identify the interior noise requirements based upon architectural and building plans to meet the City's established interior noise limit of 45 dBA CNEL. It should be noted; interior noise levels of 45 dBA CNEL can easily be obtained with conventional building construction methods and providing a closed window condition requiring a means of mechanical ventilation (e.g. air conditioning) for each building and upgraded windows for all sensitive rooms (e.g. bedrooms and living spaces).

The deck(s) along Twin Oaks Valley Road, Mission Avenue and half the balconies on the eastern side of the building closest to E. Mission Road will have elevated noise levels. This represents a significant impact (**Impact N-2**). Implementation of mitigation measure MM-N-2 will reduce this impact to below a level of significance.

- MM-N-2** Any open deck or balconies facing Twin Oaks Valley Road, E. Mission Road, or on the eastern side of the building closest to E. Mission Road, as detailed in **Figure 10**, will require 4-foot barriers to reduce sound levels. The barriers must be constructed of non-gapping materials (i.e., masonry, stucco, ¼ inch thick glass or Plexiglas).

Public Services

Development of the project will contribute to the incremental increase in demand for fire protection services City-wide. This represents a significant impact (**Impact PS-1**) and mitigation is required.

- MM-PS-1** Prior to the issuance of a grading permit, the applicant/developer/property owner shall submit an executed version of petition to annex into and establish, with respect to the property, the special taxes levied by the following Community Facility District: CFD 2001-01 (Fire and Paramedic).

Development of the project will contribute to the incremental increase in demand for police protection services City-wide. This represents a significant impact (**Impact PS-2**) and mitigation is required.

- MM-PS-2** Prior to the issuance of a grading permit, the applicant/developer/property owner shall submit an executed version of petition to annex into and establish, with respect to the property, the special taxes levied by the following Community Facility District: CFD 98-01, Improvement Area No. 1 (Police).

Transportation

The project will contribute to City-wide traffic resulting in potential cumulative impacts (**Impact TR-1**). Implementation of mitigation measure MM-TR-1 will reduce the impact to below a level of significance.

- MM-TR-1** Prior to the issuance of a grading permit, the applicant/developer/property owner shall submit an executed version of petition to annex into and establish, with respect to the property, the special taxes levied by the following Community Facility District: CFD 2011-01 (Congestion Management).