

**RESOLUTION NO. 2025-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT PERMIT FOR A PROPOSED FUEL TRANSFER FACILITY (SAN DIEGO CLEAN FUELS LLC) WITHIN BNSF RAILROAD RIGHT-OF-WAY AND BNSF-OWNED PROPERTY, LOCATED WEST OF THE 1800 BLOCK OF CLEVELAND AVENUE AND NORTH OF WEST 19TH STREET, NORTH TO CIVIC CENTER DRIVE.**

**WHEREAS**, the Planning Commission of the City of National City considered a Conditional Use Permit and Coastal Development Permit for a proposed fuel transfer facility within BNSF railroad right-of-way and BNSF-owned property, located west of the 1800 block of Cleveland Avenue and north of West 19th Street, north to Civic Center Drive at a duly advertised public hearing held on September 15, 2025, at which time the Commission denied the Conditional Use Permit and Coastal Development Permit; and

**WHEREAS**, subsequent to the Planning Commission denial of the Conditional Use Permit and Coastal Development Permit, the applicant (“APPELLANT”) appealed the decision of the Planning to the City Council; and

**WHEREAS**, the City Council of the City of National City considered the appeal of the Planning Commission’s denial of the Conditional Use Permit and Coastal Development Permit at a duly advertised public hearing held on October 7, 2025, at which time oral and documentary evidence was presented; and

**WHEREAS**, at said public hearing the City Council considered the staff report contained in Case File No. 2023-03 CUP, CDP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and

**WHEREAS**, this action is taken pursuant to all applicable procedures required by State law and City law; and

**WHEREAS**, the action hereby taken is found to be essential for the preservation of the public health, safety and general welfare.

**NOW, THEREFORE, THE CITY COUNCIL OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:**

**Section 1:** That the City Council hereby upholds the appellants’ appeal of and overturns the Planning Commission’s decision to deny the Conditional Use Permit and Coastal Development Permit No. 2023-03 CUP, CDP for a proposed fuel transfer facility within BNSF railroad right-of-way and BNSF-owned property, located west of the 1800 block of Cleveland Avenue and north of West 19th Street, north to Civic Center Drive, based on the following findings:

FINDINGS FOR APPROVAL  
OF THE CONDITIONAL USE PERMIT

1. The site for the proposed use is adequate in size and shape because the project is proposed for an approximately 7.5-acre site comprised of railroad right-of-way and adjacent property owned by BNSF railway. While the site exceeds the minimum lot area of 5,000 square feet for the Medium Manufacturing (MM) zone, only one small office structure is proposed with the majority of the site being occupied by new railways, pumping equipment to transfer fuel, and an appropriately-size paved service to allow for the ingress and egress of trucks. All proposed improvements adhere to minimum setback and site design requirements.
2. The site has sufficient access to streets and highways that are adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use because the project location is on the west side of the City where adequate truck routes exist along Bay Marina Drive, Civic Center Drive, and Tidelands Avenue. Interstate 5 is directly accessible from these streets. In addition, the site has access from West 18th and West 19th Streets for ingress and egress of truck traffic. As a condition of approval, the West 18th Street right-of-way is required to be improved to the satisfaction of the City Engineer. A traffic impact study was completed for the proposed project and the trip generation of the proposed use was determined to be minimal.
3. The proposed use will not have an adverse effect upon adjacent or abutting properties because the proposed project is an industrial use consistent with the Medium Manufacturing (MM) zone description in the General Plan and will be subject to conditions of approval that ensure safe operation of the facility. Adjacent and abutting properties are occupied by similar industrial and manufacturing uses. As a condition of approval, the project is required to include a screening wall or fence and enhanced landscaping to reduce visual impacts. The project is also required to conform to all development standards and design guidelines of the MM zone, as well as all the requirements of the Mitigation Monitoring and Reporting Program developed for this Project and incorporated as conditions in the CUP.
4. The proposed use is deemed essential and desirable to the public convenience or welfare because the project proposes to further advance State goals to reduce the carbon-based emissions in the transportation sector. The proposed fuel transfer facility will bring approximately 13,800 barrels of biofuels to the regional market daily. Renewable biofuels can contribute to up to an 80% decrease in emissions from standard diesel fuel. The public will benefit from access to a cleaner-burning fuel as well as increased air quality and a reduction of GHG emissions. The use is consistent with the MM zone description, which is intended for uses in areas in which activities involve some degree of noise, vibration, air pollution, radiation, glare phenomena, and/or fire and explosive hazards. In addition, the project proponent will enter into an economic benefit agreement with the City that will

generate funds for the purpose of reducing emissions and improving the quality of life for residents.

FINDINGS FOR APPROVAL  
OF THE COASTAL DEVELOPMENT PERMIT

1. The granting of said Coastal Development Permit will be consistent with all other plans and ordinances of the City of National City because the proposed use is permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. As discussed in the staff report, several policies in the Land Use, Transportation, Safety, Noise and Nuisance, Open Space and Agriculture, and Conservation and Sustainability Elements of the General Plan are being met by the project. The project, subject to the condition of approval related to the establishment of an economic development agreement, is consistent with the policies of the Health and Environmental Justice Element because the additional funds can be used for the implementation of policies and programs to reduce emissions and improve the welfare of residents in the vicinity of the project area. The proposed economic benefit can also be used to further the goals of the AB 617 Portside Community's Community Emissions Reduction Plan (CERP). The project, subject to the approved mitigation measures requiring conformance with specific Climate Action Plan (CAP) policies, is also consistent with the CAP Update.
2. The granting of said Coastal Development Permit will be consistent with and implements the Certified Local Coastal Program because the project is located in an area generally exempt from a Coastal Development Permit; involves a fuel storage and distribution use, which is conditionally allowed in the MM zone; and will not prohibit coastal access or obstruct views.

**Section 2:** That the City Council hereby approves the application for Conditional Use Permit and Coastal Development Permit subject to the following conditions:

General

1. This *Conditional Use Permit* and *Coastal Development Permit* authorizes the construction and operation of a fuel transfer facility. Except as required by Conditions of Approval, all plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2023-03 CUP, CDP, IS, dated 2/15/2024.
2. This *Conditional Use Permit* and *Coastal Development Permit* shall not become effective until the Environmental Impact Report associated with the project has been certified and the Notice of Determination filed with the CEQA State Clearinghouse, and all required appeals have been exhausted.
3. Before this *Conditional Use Permit* and *Coastal Development Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within

30 days of its receipt shall automatically terminate the *Conditional Use Permit* and *Coastal Development Permit*. The applicant or owner shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant or owner shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* and *Coastal Development Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.

4. *Within four (4) days of approval*, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. Checks shall be made payable to the *San Diego County Clerk* and submitted to the National City Planning Division. The fee is currently \$4,123.50, although it may be different at time of filing.
5. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
6. This *Conditional Use Permit* and *Coastal Development Permit* may be revoked if the operator is found in violation of any Conditions of Approval or applicable law. The property, the use and the permittee shall comply with all applicable law at all times.
7. Should either the Conditional Use Permit or Coastal Development Permit expire or be revoked, operations of the authorized use shall cease immediately.

#### Building

8. All plans submitted for improvements must comply with the current editions of the California Building, Electrical, Plumbing, Mechanical, and Fire Codes.

#### Coastal Development Permit – Special Conditions

9. **Expiration.** Except as otherwise provided in this special condition, this Coastal Development Permit (CDP) shall expire 30 years from the date of approval. By acceptance of this CDP, the Permittee acknowledges and agrees that the project authorized pursuant to this CDP is thus interim and temporary, and is permitted for the time frame identified in order to provide a reasonable period of time for the Permittee to evaluate future risk of coastal hazards as influenced by sea level rise and plan, develop, and implement any necessary responses to coastal hazards including adaptation or relocation alternatives, to ensure minimization of risk in the long term, or to address any coastal resource impacts associated with maintaining the subject development at this location.

At least six months prior to the expiration of the authorization period, the Permittee or its successors shall submit an application for a CDP amendment to either (a) modify the expiration date of this CDP and modify its design, as needed, to ensure consistency with the Coastal Act, or (b) relocate or remove all or portions of the project and restore the affected

areas to pre-development conditions or better. If a complete CDP amendment application is filed prior to the CDP expiration date, the authorization period shall be automatically extended until the time the City acts on the application. The required amendment application shall conform to the City's permit filing regulations at the time and shall reflect the approach(es) identified in the Coastal Hazards Adaptation and Implementation Plan (see Special Condition 10), as well as any necessary updates to reflect the site conditions and regional sea level rise planning approaches at the time of the amendment.

10. **Coastal Hazard Adaptation and Implementation Plan.** The permittee shall submit for review and approval a Coastal Hazards Adaptation and Implementation Plan (CHAIP) at the same time as the CDP amendment required pursuant to Special Condition 9 or at the same time as any future application for modifications to the development authorized by this CDP, whichever comes first. The CHAIP shall identify a suite of strategies necessary for protecting, relocating, or otherwise adapting the development authorized by 2023-03 CDP as necessary to maintain safety from flooding and other coastal hazards in order to minimize risk and assure stability and structural integrity and to ensure protection of coastal resources over the long-term (at least through 2125). The CHAIP shall reflect the ongoing long-term sea level rise adaptation planning efforts by the City, the Port of San Diego, and other relevant asset managers and stakeholders. The CHAIP shall include/address the following:
  - a. An analysis of current and future coastal hazards that may impact the development authorized in this CDP, including flood hazards caused by tidal inundation, extreme tides and storms, overtopping of seawalls/dikes/levees, and elevated groundwater and/or reduced or inadequate drainage, which takes into account local sea level rise through at least 2125, considering intermediate-high and high SLR scenarios, and based on the best available science at the time of plan preparation.
  - b. An evaluation of alternatives to the development authorized in this CDP to address any coastal hazard vulnerabilities identified, including but not limited to alternatives involving accommodation strategies (e.g., floodproofing), protection measures, and retreat and relocation strategies (including retreat and relocation of all or portions of the development). The evaluation shall describe the specific design elements and adaptation measures, including how different strategies may be used in combination and over time to ensure the integrity and functionality of the project and protection of coastal resources. The information concerning these alternatives must be sufficiently detailed to enable the City to evaluate the feasibility of each alternative for addressing consistency with the Coastal Act, including whether the alternatives minimize risks of geologic and flood hazards and ensure protection of coastal resources. The evaluation shall include a feasibility analysis of the alternatives that assesses and considers all potential constraints, including geotechnical and engineering constraints, regulatory requirements, project costs, and potential funding options. The identified adaptation strategies and overall long-term approach shall be the least-environmentally damaging feasible alternative

11. A Grading and Improvement plan shall be required to be submitted to the National City Public Works Department.
12. The following items are required to be submitted at the time the grading plans are submitted:
  - a. A soils report.
  - b. Hydrology study.
  - c. Hydro modification report or a letter from the engineer of work detailing why a hydro modification is not required.
  - d. An engineer's cost estimate.
  - e. Two copies of calculations for any retaining walls.
  - f. A copy of calculations for any other underground structure.
  - g. Completed Storm Water BMP Applicability Checklist located at this link: <https://www.nationalcityca.gov/home/showpublisheddocument/13794/636287938225800000>.
  - h. A completed copy of the "Application for Grading or Construction" located at this link: <https://www.nationalcityca.gov/home/showpublisheddocument/12543/636090627169130000>.
13. The plans shall be drawn by a registered civil engineer licensed in the State of California.
14. The plans shall be drawn on National City standard border with National City standard title block and standard notes.
15. The plans shall be drawn on standard "D" size sheets.
16. Bonding in the amount of 100% of the engineer's cost estimate is required.
17. A Storm Water BMP Maintenance Agreement shall be required.
18. Landscaped plans shall be included with the grading and improvement plans.
19. No work shall commence until a grading permit has been issued by the City of National City and a preconstruction meeting held with the Senior Construction Inspector.
20. All work performed shall comply with all State and local requirements and the requirements of the Department of Toxic Substance Control.
21. Sidewalk shall be installed along the southerly side of West 18<sup>th</sup> Street from the westerly end of West 18<sup>th</sup> Street to the alley which runs from West 18<sup>th</sup> Street to West 19<sup>th</sup> Street.
  - a. The sidewalk shall be aligned with the existing sidewalk east of the alley.
  - b. The sidewalk shall conform to the San Diego Regional Standard Drawings (SDRSD) G-07, G-09, and G-10.
22. Curb and gutter shall be installed along the southerly side of West 18<sup>th</sup> Street from the westerly end of West 18<sup>th</sup> Street to the westerly side of the alley which runs from West 18<sup>th</sup> Street to West 19<sup>th</sup> Street.

- a. The curb and gutter shall run from the end of the street pavement to the alleys and connect to the existing return on the south side and have a new return installed on the north side which mirrors the south return.
  - b. Curb and gutter shall be in accordance with the SDRSD G-02, G-09, and G-10.
23. West 18<sup>th</sup> Street shall be reconstructed from the alley to the westerly limit. Full depth reconstruction with four inches of Asphalt Concrete pavement over ten inches of base in accordance with National City Standard Drawing SB-113. Where road surface terminates at the property line on the west end there shall be a 2" x 4" redwood header in conformance with Cal Trans Section 02513 Asphalt Concrete Paving.
24. Fencing shall be installed where the K-rails are currently installed along the property lines. Gate(s) shall be equipped with Knox box(es) for emergency access.

#### Fire

25. Plans are to be designed, fabricated, and installed in compliance with the current editions and standards of the National Fire Protection Association (NFPA), California Fire Code (CFC), California Building Code (CBC), National Electrical Code (NEC), Title 19 and local City of National City Municipal Codes. All design plans shall reflect the most current code at time of submittal.
26. Permits shall be obtained through the City of National City's Building and Fire Departments. Engagement with both departments includes: submission of site, electrical, and fire protection plans, emergency response integration strategies, and clear access for utilities and first responders.
27. A fire protection engineer shall be consulted and shall be instrumental in concept and design of fire protection devices required for this project. The proposed fire protection systems shall include the following elements:
  - Early warning detection (smoke/heat), especially in enclosed structures.
  - Fire alarm systems tied to building occupancy and risk.
  - Fire sprinkler systems per NFPA 13.
  - Clear emergency shut-off signage and system accessibility
28. The National City Fire Department follows the following preparedness recommendations for new projects to enhance safety and readiness:
  - Require full compliance with NEC, NFPA, CBC, and CFC codes.
  - Perform fire flow and hydrant assessments prior to construction.
  - Design fire access road to meet CFC Section 503.
  - Special equipment needed/required to respond and safely address/tackle the emergency.
  - Engage in pre-incident planning and joint site inspections.

- Conduct training drills for fuel spills/hazards and fire scenarios.
  - Conduct annual drills with NCFD and advise of any changes to the industry/site.
  - Ensure emergency shut-offs, placards, and safety systems are clearly marked and easily accessible.
  - Require NCFD sign package for new development.
  - This comprehensive approach ensures the safety and preparedness of the National City Fire Department and ultimately the community. For questions, please reach out to the Fire Department at 619-336-4550.
29. Project will be required to apply for all hazardous material permits per the 2022 or current edition of the CFC with the Fire Department.
  30. The proposed office trailer shall be permitted through the National City Building Division as a permanent structure.
  31. If fire sprinkler and fire alarm protection is required, fire protection plans are to be directly submitted to the National City Fire Department under separate permit for review and permitting. Fees along with three (3) sets of plans including all “Cut Sheets and Calculations” shall be included upon submittal. Plan review shall be a 30-day plan review process or 21 working days. No over the counter plan review accomplished/no exceptions. It shall be unlawful to occupy any portion of a building or structure until the required fire detection, alarm and suppression system have been tested and approved.
  32. Fire apparatus access roads shall comply with the requirements of this section (Section 5 CFC 2022) and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building. Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.
  33. The required width of emergency fire apparatus access roads shall not be obstructed in any manner, including parking of vehicles. All access roads shall be no less than 20 feet wide, no less than 14 feet high and shall have an all-weathered road with the ability to support 75 thousand pounds or greater. Where a fire hydrant is located on a fire apparatus road; the minimum road width shall be 26 feet. A 28-foot turning radius is required for fire department access through site. All fire department access roads shall be painted and signed to prevent parking in these required designated emergency areas.
  34. Grade of fire apparatus road shall be within the limits established (15% Grade) by the fire code official based on fire department’s apparatus.
  35. One or more of the required access routes meeting this condition shall be located not less than 15 feet and not greater than 30 feet from the building, and shall be positioned parallel to one entire side of the building. The side of the building on which aerial fire apparatus access road is positioned shall be approved by the fire code official.
  36. Aerial fire apparatus roads shall have a minimum unobstructed width of 26 feet, exclusive of shoulders, in the immediate vicinity of the building or portion thereof.

37. The fire code official is authorized to require more than one fire apparatus road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions other factors that could limit access. A secondary roadway will be required.
38. Where two fire apparatus roads are required, they shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between access.
39. Fire hydrants to be located throughout the project as not to have a separation distance greater than 300 feet. Fire hydrants to be located within 300 feet of all locations which are roadway accessible. (Measurement starts from nearest existing fire hydrant to project).
40. The following items pertain to fire hydrants:
  - A. Size and location, including size and number of outlets and whether outlets are to be equipped with independent gate valves.
  - B. Fire hydrant to be of three outlet design.
41. Provide calculation confirming flow availability to meet fire flow demands and supply large diameter hose (4 inch).
42. Fire hydrants to be marked by use of blue reflective marker in the roadway.
43. Upon submittal for an underground permit, the following shall be included:
  - Data sheet for Back-Flows
  - Data sheets for Private and Commercial Hydrants
  - Data sheets for Post Indicator Valves
    - o *Information on required fire hydrants back-flow devices, etc.; can be acquired from Sweetwater Authority. All pipe and their appliances, shall meet industry/code standards for underground use*
44. An Aqueous Film Forming Foam Fluorine Free Firefighting platform and additional fire hydrants shall be installed on site to the satisfaction of the National City Fire Department for use in the event of a fire.
45. Prior to the commencement of operations, a completed Facility Response Plan (FRP) shall be submitted to both the National City Fire Department and National City Planning Division.
46. As part of the operational and safety planning related to the deployment of business infrastructure, the National City Fire Department will implement a cost recovery component to ensure fiscal responsibility during emergency incidents. Cost recovery will be defined as the reimbursement of expenses incurred by the fire department in the course of an emergency response involving business systems or installations. This includes, but not limited to: personnel costs, equipment usage, and damaged or lost equipment. The cost recovery framework ensures that the department remains equipped and funded to maintain operational readiness without placing undue financial burden on the municipality or local taxpayers.

47. Additional comments may be required based on additional information provided due to the above comments. Final approval contingent upon final field inspection and compliance with all applicable codes and ordinances.

## Planning

48. This *Conditional Use Permit* and *Coastal Development Permit* authorizes the construction and operation of a fuel transfer facility for various *biofuels*. The transfer and handling of any other fuel or product, except for necessary additives, is strictly prohibited. The average daily transfer volume of product shall not exceed 13,800 barrels of fuel per day.
49. A qualified professional archaeologist, meeting or working under the direction of someone meeting the Secretary of the Interior's Professional Qualifications Standards for prehistoric and historic archaeology should be retained to monitor all ground-disturbing activities associated with the construction of the project, including vegetation removal, clearing, grading, trenching, excavation, or other activities that will disturb original (pre-project) ground. The monitor must have the authority to temporarily pause activity at the location in the event of an unanticipated discovery, as identified in mitigation measure **(MM) CUL-1** of the Mitigation Monitoring and Reporting Program (MMRP).
50. A Native American monitor from a tribe that is traditionally and culturally affiliated with the Project Area should be retained to monitor all ground-disturbing activities associated with Project construction, including vegetation removal, clearing, grading, trenching, excavation, or other activities that will disturb original (pre-project) ground. The Native American monitor should have the authority to temporarily pause activity at the location in the event of an unanticipated discovery, so that he or she can coordinate with the Project archaeologist on the identification of a potential cultural resource, as identified in **MM-CUL-2** of the MMRP.
51. If subsurface deposits believed to be cultural or human in origin are discovered during construction, all work must halt within a 100-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for pre-contact and historic archaeology, shall be retained to evaluate the significance of the find, and shall have the authority to modify the no-work radius as appropriate, using professional judgment, as identified in **MM-CUL-3** of the MMRP.
52. The project shall implement the following applicable greenhouse gas-reducing measures, consistent with the National City Climate Action Plan Update, as identified in **MM-GHG-1** of the MMRP:
- Prior to issuance of a building permit, the applicant shall demonstrate that the employee parking lot is electric vehicle ready on the plans (i.e., charging stations, preferred parking, etc.).
  - Limit idling times for all employee and tanker truck vehicles, as well as construction equipment, to less than 5 minutes.

- Prior to issuance of a building permit, the applicant shall demonstrate implementation of all applicable Nonresidential Voluntary Measures of the California Green Building Standards Code – Part 11, Title 24, California Code of Regulations (CalGreen) from the Planning and Design, Energy Efficiency, Water Efficiency and Conservation, and Material Conservation and Resource Efficiency Divisions (Appendix A5 of the 2022 California Green Building Standards Code). These measures shall include, but are not limited to, energy efficiency enhancements, water use reduction, sustainable building materials, improved indoor environmental quality, and waste management strategies.
53. Prior to the start of construction activities, a qualified biologist shall salvage seed from the Nuttall's Acmispon (*Acmispon prostratus*) during the appropriate time of year (June to October), store under appropriate conditions, and coordinate donation of the seeds with a refuge and/or plant nursery (e.g., Sweetwater Marsh National Wildlife Refuge and Native West Nursery) that would apply seed within the refuge boundaries. Appropriate seed storage conditions are in a paper bag, placed in a dry location out of direct sunlight, away from moisture, ideally at 72 degrees Fahrenheit. Seed shall be collected from June to October 2024 and the subsequent spring (2025), provided that the plant is present and ready to seed, as identified in **MM-BIO-1** of the MMRP.
54. Where feasible, ground-disturbing activities, including vegetation removal, shall be conducted during the non-breeding season (approximately September 1 through January 14) to avoid violations of the MBTA and California Fish and Game Code §§ 3503, 3503.5 and 3513. Several species identified as having potential to nest year-round; therefore, regardless of time of year, a pre-construction survey for nesting birds and special-status avian species shall be conducted by a qualified biologist (experienced in the identification of avian species and conducting nesting bird surveys) if activities with the potential to disrupt nesting birds or special-status avian species are scheduled to occur. The survey shall include the Proposed Project and adjacent areas where Project activities have the potential to cause nest failure. The pre-construction survey shall be conducted no more than three days prior to the start of ground-disturbing activities (including vegetation removal) within the bird breeding season. Site preparation and construction activities may begin if no nesting birds or special status avian species are observed during the survey. If nesting birds or raptors or special-status avian species are found to be present, avoidance or minimization measures shall be implemented to avoid potential Proposed Project-related impacts to the species. Avoidance and minimization measures shall be developed by the qualified biologist and may include seasonal work restrictions, additional survey and monitoring requirements, or non-disturbance buffers established around active nests until the biologist has determined that the nesting cycle is completed. The width of non-disturbance buffers established around active nests will be determined by the qualified biologist (300 feet is typically recommended for songbirds and 500 feet is typically recommended for raptors). Once nesting is deemed complete by the qualified biologist as determined through periodic nest monitoring, the non-disturbance buffer will be removed by the qualified biologist and project work may resume in the area, as identified in **MM-BIO-2** of the MMRP.
55. If tree trimming and removal activities are required, these activities should take place outside of the bat maternity season (April 1 to August 31) to the greatest extent feasible. If tree

removal must take place during the maternity season, a pre-removal bat survey shall take place to determine if bats are roosting in the trees. If bats are determined to be present in the trees during surveys, tree removal shall be postponed until after the maternity season (September 1 through March 31). All tree-trimming and removal activities shall be conducted under the direct supervision of a qualified bat biologist.

To minimize direct mortality to any roosting bats, including western yellow bat, each palm tree requiring removal shall be trimmed using a two-step process conducted over two consecutive days. On the first day only the outermost fronds of each individual tree shall be removed, including the uppermost live fronds (the top of the tree) entirely on the first day along with the upper 25 percent of the frond skirt. The innermost fronds shall not be trimmed. No more than 50 percent of the palm fronds shall be removed from each tree during Day 1. This method would allow for sufficient disturbance of the tree that would encourage any roosting bats within the frond skirt to abandon the tree during evening emergence without directly impacting roosting bats within the skirt. The remainder of the tree should be removed on the second day. This procedure need not be implemented if the tree does not have fronds. All fronds must be removed/trimmed using chainsaws or other hand-tools. No use of heavy equipment shall be used to remove fronds.

If bats emerge at any time during the tree trimming, trimming activities shall cease at that individual tree for the remainder of the day to allow for any additional bats roosting in the tree to emerge during evening hours when it is safe and appropriate for them to do so. Trimming of the tree may resume the following morning.

Tree trimming activities in the fall should be conducted on days when weather conditions are such that roosting bats are unlikely to be in torpor (predicted overnight lows on evenings before and after the tree trimming activities are above 45°F) to the extent practicable, as identified in **MM-BIO-3** of the MMRP.

56. A maximum of 72 trucks may enter the site for the purposes of fuel transport per day. No vehicles used for fuel transport shall be stored on adjacent public streets.
57. Prior to the issuance of building permits for this project, an operations plan shall be submitted to the National City Planning Division for review and approval. The operations plan shall include, at a minimum, the following:
  - A description of how logs will be maintained on the amount of product transferred at the site and the number of trucks transporting fuel.
  - A restriction on the maximum number of trucks to enter the site on a daily basis.
  - A detailed description of routes that incoming and exiting trucks will use. Routes shall be based on established truck routes in the City of National City.
  - A restriction on truck idling per NCMC Chapter 11.34.
  - A description of how the operator will prevent standing or staging of trucks within the right-of-way before fuel is loaded.
58. The project proponent shall enter into an economic benefit agreement with the City of National City providing annual funds for the life of the project in the amount of \$200,000.00 for the

purpose of implementing strategies aimed at the reduction of emissions and improving the quality of life within neighborhoods in the vicinity of the proposed facility. The agreement shall be reviewed by the City Attorney's office and approved by the City Council prior to the commencement of fuel transfer operations at the facility. The use of funds shall be dedicated to the implementation of the goals and strategies found in the AB 617 Portside Community's approved Community Emissions Reduction Plan (CERP), the City's approved Climate Action Plan (CAP), and/or other policies explicitly stated in the City's General Plan that are reasonably related to the stated purpose of the funds.

59. At all times, the facility shall be operated in conformance with all San Diego Air Pollution Control District (SDAPCD) rules and regulations pertaining to the proposed use including, but not limited to, nuisance odors and emissions standards.
60. All required federal, state, or local permits for the installation and operation of the facility shall be approved prior to start of operations. Permits shall be maintained for the life of the project. Failure to maintain proper operating permits shall constitute a violation of this CUP and CDP.
61. All development plans submitted for the construction of the proposed facility shall adhere to the design regulations of Section 18.18.180 of the previous Land Use Code (Ord. 1503 § 1 (part), 1976: NCLUC § 972-6 (part)). Specifically, the proposed office structure on site shall conform with the materials standards of Section 18.18.240 of the previous Land Use Code (Ord. 1892 § 5, 1986; Ord. 1503 § 1 (part), 1976: NCLUC § 972-6.04)
62. The applicant shall provide a solid six-foot high perimeter wall or fence around the proposed development, subject to visibility triangle requirements for driveways and operational requirements for railway tracks for the purposes of screening the fuel transfer facility and reducing potential noise impacts on the surrounding area. The screening wall or fence shall be protected with graffiti-resistant coating to a height of six feet on all sides facing the exterior of the property. The wall or fence shall be provided in addition to required landscaping.
63. A landscape plan shall be submitted with development plans in conformance with Chapter 18.54 of the previous Land Use Code (Ord. No. 2010-2331, § 1; 3-2-2010). All landscaped areas shall be maintained for the life of the project.
64. Street trees shall be provided at a ratio of one tree per 30 feet along West 18<sup>th</sup> Street, West 19<sup>th</sup> Street, and the alley to the east, excepting the portions of frontages occupied by driveways. Trees shall be 24" box size or larger, preferably mature, and of a species providing the maximum shade canopy to the extent permitted by overhead power lines.
65. Shrubs shall be provided at a minimum of two shrubs per six feet along West 18<sup>th</sup> Street, West 19<sup>th</sup> Street, and the alley to the east, excepting the portions of frontages occupied by driveways. Shrubs shall be a minimum 10-gallon size. Shrubs shall be located on the right-of-way side of the screening wall or fence along West 18<sup>th</sup> and 19<sup>th</sup> Streets.
66. Plans submitted for construction shall conform to Chapter 18.60 – Outdoor Lighting of the previous Land Use Code (Ord. 1503 § I (part), 1976: NCLUC § 975-10).
67. Plans submitted for construction shall conform to Chapter 18.86 - Mechanical Equipment of the previous Land Use Code (Ord. 1503 § 1 (part), 1976: NCLUC § 976-1 (part)).

68. Applicant shall coordinate with EDCO to determine the appropriate trash and recycling needs for the project. Location of trash and recycling shall be shown on building permit plans and screened from public view.
69. The design of the project shall not interfere with the ability to utilize Zero Emissions Vehicles (ZEVs) in facility operations.
70. The operator shall work with local outlets to inform residents of employment opportunities at the fuel transfer facility. At a minimum, new positions shall be posted on the National City Chamber of Commerce website.
71. The applicant shall comply with all applicable standards required by outside agencies and service providers. It is advised that, at a minimum, San Diego Gas and Electric and Sweetwater Authority be consulted prior to the submittal of development permits.

#### Indemnification Agreement

The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify the Applicant of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, the Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform any settlement unless such settlement is approved by the Applicant.

**Section 3:** That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

**PASSED and ADOPTED** this 7<sup>th</sup> day of October, 2025.

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Ron Morrison, Mayor

ATTEST:

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Shelley Chapel, MMC, City Clerk

APPROVED AS TO FORM:

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Barry J. Schultz, City Attorney