

RESOLUTION NUMBER R- 296575

ADOPTED ON MAY 28 2002


BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration LDR No. 41-0980, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the San Diego Main Library Proposition 14 Grant application.

BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: CASEY GWINN, City Attorney

By  _____
Jacqueline Lindsay
Deputy City Attorney

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**ATTACHMENT A
MITIGATION, MONITORING, AND REPORTING PROGRAM
NEW MAIN LIBRARY
LDR NO. 41-0980**

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with AB 3180 (1989) during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. The City of San Diego, Engineering and Capital Projects Department, Public Buildings and Parks Division and the Development Services Department are jointly responsible for ensuring that this program is carried out.

Geology

Prior to issuance of a Site Development Permit a thorough geotechnical investigation shall be required to evaluate suitability of the proposed structure within the Downtown Special Fault Zone (DSFZ). In addition, effects of seismic shaking shall be mitigated by adhering to the Uniform Building Code (UBC) or state-of-the-art seismic design.

Historical Resources (Archaeology)

As a condition of the Site Development Permit No. 41-0980, the applicant shall provide a full-time archaeological monitoring program during removal of landscape, hardscape, and for the initial stages of grading as follows:

1. PRIOR TO PRECONSTRUCTION MEETING

a. Land Development Review (LDR) Plan Check

Prior to the first preconstruction meeting, the ERM of LDR shall verify that the requirements for Archaeological Monitoring and Native American monitoring, if applicable, have been noted on the Grading Plans (may also include but not be limited to Demolition Plans and/or Building Plans).

b. Letters of Qualification have been Submitted to ERM

Prior to the first preconstruction meeting, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Archeologist, as defined in the City of San Diego Historical Resources Guidelines, has been retained to implement the monitoring program. Verification shall be provided to the ERM of LDR prior to the first preconstruction meeting that the qualified archaeologist has been HAZWOPER certified by the County of San Diego.

c. Second Letter Containing Names of Monitors has been sent to MMC.

A second letter shall be submitted to Mitigation Monitoring Coordination (MMC) at least thirty days prior to the Preconstruction(Precon) Meeting and shall include the names of all persons involved in the Archaeological Monitoring of this project.

d. Records Search Prior to Precon Meeting

The qualified Archeologist shall verify that a records search has been completed and updated as necessary prior to the Precon Meeting and be prepared to

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introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to, a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the Principal Investigator (PI) stating that the search was completed.

2. PRECONSTRUCTION MEETING

Monitor Shall Attend Precon Meetings

Prior to beginning any work that requires monitoring, the Owner/Permittee shall arrange a Precon Meeting that shall include the Archeologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE) and MMC. The qualified Archeologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Archeological Monitoring program with the Construction Manager and/or Grading Contractor. Results of potential soil contamination within the project site shall be addressed with the archaeological monitor during the preconstruction meeting.

If the Monitor is not able to attend the Precon Meeting, the RE will schedule a focused Precon Meeting for MMC, EAS staff, as appropriate, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.

Units of Measure and Cost of Curation for Public Projects

Units of measure and cost of curation will be discussed and resolved at the Precon Meeting prior to start of any work that requires monitoring.

Identify Areas to be Monitored

At the Precon Meeting, the Archeologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored as well as areas that may require delineation of grading limits.

When Monitoring Will Occur

The Archeologist shall also submit a construction schedule indicating when monitoring is to occur and will notify MMC of the start date for monitoring.

3. DURING CONSTRUCTION

a. Monitor Shall be Present During Grading/Excavation

The qualified Archeologist shall be present full-time during grading/excavation of native soils and shall document activity via the Consultant Site Visit Record (form). This form shall be sent to the RE each month. The RE will forward copies to MMC.

b. Monitoring Trenches Will Include Mainline, Laterals, and all Appurtenances

Monitoring is required for the mainline, laterals, services and all other appurtenances that impact native soils, including trenching within native soils that is new and /or one foot deeper than existing mainlines, laterals, services, and other appurtenances as detailed on the plans or in the contract documents. **It is the contractors responsibility to keep the monitors up-to-date with current plans.**

c. Discoveries

(1) Discovery Process

In the event of a discovery, and when requested by the Archeologist, the

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RE shall be contacted and shall divert, direct or temporarily halt ground disturbing activities in the area of discovery to allow for preliminary evaluation of potentially significant archaeological resources. The Archeologist with PI level evaluation responsibilities shall also immediately notify MMC of such findings at the time of discovery. MMC will provide appropriate LDR staff contact for consultation.

(2) Determination of Significance

The significance of the discovered resources shall be determined by the Archeologist in consultation with LDR and the Native American Community, if applicable. LDR must concur with the evaluation before grading activities will be allowed to resume. For significant archaeological resources, a Research Design and Data Recovery Program shall be prepared and carried out to mitigate impacts before ground disturbing activities in the area of discovery will be allowed to resume.

d. **Human Remains**

The following is a summary of the procedures set forth in the Public Resources Code (Sec.5097.98) and the State Health and Safety code (Sec. 7050.5):

(1) NOTIFICATION

- (a) Archaeological Monitor shall notify the Resident Engineer (RE), Principal Investigator (PI), if the Monitor is not qualified as a PI, and Mitigation Monitoring Coordination (MMC). MCC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).
- (b) The PI shall notify the County Coroner after consultation with the RE, either in person or via telephone.

(2) STOP WORK AND ISOLATE DISCOVERY SITE

- (a) RE shall stop work immediately in the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made concerning the origin of the remains and the cause of death.
- (b) The County Coroner, in consultation with the PI, shall determine the need for a field investigation to examine the remains and establish a cause of death.
- (c) If a field investigation is not warranted, the PI, in consultation with the County Coroner, shall determine if the remains are of Native American origin.

(3) IF HUMAN REMAINS ARE NOT NATIVE AMERICAN

- (a) The PI shall contact the Native American Historic Commission (NAHC) and notify them of the historical context of the burial. NAHC will identify the person or persons it believes to be the Most Likely Descendent (MLD).
- (b) The MLD may make recommendations to the land owner or PI responsible for the excavation work to determine the treatment of the human remains (PRC 5097.98).
- (c) If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for reburial of the human remains shall be made in consultation with MMC, EAS, the land owner, the NAHC and the Museum of Man.

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(4) **IF HUMAN REMAINS ARE NATIVE AMERICAN**

- (a) The Coroner shall notify the Native American Heritage Commission NAHC. (NOTE: By law, ONLY the Coroner can make this call.)
- (b) NAHC will identify the person or persons it believes to be the MLD.
- (c) The MLD may make recommendations to the land owner or PI responsible for the excavation work to determine the treatment, with appropriate dignity, of the human remains and any associated grave goods (PRC 5097.98).

(5) **BURIAL PROCEDURES**

The land owner, or his authorized representative shall rebury the Native American human remains and any associated grave goods, with appropriate dignity, on the property in a location not subject to further subsurface disturbance, IF:

- (a) The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 24 hours after being notified by the Commission; OR;
- (b) The landowner or authorized representative rejects the recommendation of the MLD and mediation by the NAHC fails to provide measures acceptable to the landowner.

(6) **BURIAL PROCEDURE IF IDENTIFICATION OR MEDIATION FAILS**

IF, the NAHC is unable to identify a MLD, OR, the MLD fails to make recommendations within 24 hours after being notified by the commission, OR, the landowner or authorized representative rejects the recommendation of the descendant, AND mediation by the NAHC fails to provide measures acceptable to the landowner; THEN:

e. **Notification of Completion**

The Archeologist shall notify MMC and the RE of the end date of monitoring.

4. **POST CONSTRUCTION**

a. **Handling and Curation of Artifacts and Letter of Acceptance**

The Archeologist shall be responsible for ensuring that all cultural remains collected are cleaned, catalogued, and permanently curated with an appropriate institution that a letter of acceptance from the curation institution has been submitted to MMC that all artifacts are analyzed to identify function and chronology as they relate to the history of the area that faunal material is identified as to species; and that specialty studies are completed, as appropriate.

b. **Final Results Reports (Monitoring and Research Design And Data Recovery Program)**

- (1) For Public Projects, within three months following the completion of monitoring, two copies of the Final Results Report (even if negative) and/or evaluation report, if applicable, which describes the results, analysis, and conclusions of the Archaeological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the Environmental Review Manager of LDR and one copy sent the Resident Engineer.
- (2) For significant Archaeological resources encountered during monitoring, the Research Design And Data Recovery Program shall be included as part

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of the Final Results Report. Two copies of the Final Results Report for significant Archaeological resources, if required, shall be submitted to MMC for approval by the ERM of LDR and one copy sent the RE.

c. Recording Sites with State of California Department of Park and Recreation

The Archeologist shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms -DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center at San Diego State University with the Final Results Report.

Paleontological Resources

The site is underlain by a geologic formation which has a moderate probability of containing important paleontological resources. The amount of excavation required for the project has the potential to adversely impact those resources, therefore a monitoring program is required as a condition of Site Development Permit No. 41-0980. The conditions are as follows:

1. PRIOR TO PRECONSTRUCTION MEETING

a. Land Development Review (LDR) Plan Check

Notes on plans

(1) For Public Projects, prior to the first preconstruction meeting, the ERM of LDR shall verify that the requirements for Paleontological monitoring and Native American monitoring, if applicable, have been noted on the Grading Plans (may also include but not be limited to Demolition Plans and/or Building Plans).

b. Letters of Qualification have been Submitted to ERM

(1) For Public Projects, prior to the first preconstruction meeting, the applicant shall provide a letter of verification to the ERM of Land Development Review (LDR) stating that a qualified Paleontologist, as defined in the City of San Diego Paleontological Guidelines, has been retained to implement the monitoring program.

c. Second Letter Containing Names of Monitors has been sent to MMC.

A second letter shall be submitted to Mitigation Monitoring Coordination (MMC) at least thirty days prior to the Preconstruction (Precon) Meeting and shall include the names of all persons involved in the Paleontological monitoring of this project.

d. Records Search Prior to Precon Meeting

The qualified Paleontologist shall verify that a records search has been completed, and updated as necessary, prior to the Precon Meeting and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to, a copy of a confirmation letter from the San Diego Natural History Museum, other institution, or, if the record search was in-house, a letter of verification from the PI verifying that the search was completed.

2. PRECON MEETING

a. Monitor Shall Attend Precon Meetings

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- (1) Prior to beginning of any work that requires monitoring, the Owner/Permittee shall arrange a Precon Meeting that shall include the Paleontologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE) and MMC. The qualified Paleontologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring Program with the Construction Manager and/or Grading Contractor.
- (2) If the Monitor is not able to attend the Precon Meeting, the RE will schedule a focused Precon Meeting for MMC, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.

b. Identify Areas to be Monitored

At the Precon Meeting, the Paleontologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored.

c. When Monitoring Will Occur

The Paleontologist also shall submit a construction schedule indicating when monitoring is to occur and will notify MMC of the start date for monitoring.

3. DURING CONSTRUCTION

a. Monitor Shall be Present During Grading/Excavation

- (1) For Public projects, the qualified Paleontologist shall be present full-time during the initial cutting of previously undisturbed formations with high and moderate resource sensitivity at depths of 10 feet or more and shall document activity via the Consultant Site Visit Record (form). This form shall be sent to the RE each month. The Re will forward copies to MMC.

b. Monitoring of trenches will include mainline, laterals, and all appurtenances (Public projects)

Monitoring is required for the mainline, laterals, services and all other appurtenances that impact formations with high and moderate resource at depths of 10 feet or greater as detailed on the plans or in the contract documents. **It is the contractors responsibility to keep the monitors up-to-date with current plans.**

c. Discoveries

(1). Minor Paleontological Discovery

In the event of a minor Paleontological discovery (small pieces of broken common shell fragments or other scattered common fossils) the Paleontologist will notify the RE that a minor discovery has been made. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist will continue to monitor the area and immediately notify the RE if a potential significant discovery emerges.

(2) Significant Paleontological Discovery

In the event of a significant Paleontological discovery, and when requested by the Paleontologist, the city RE shall be notified and shall divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist with Principal Investigator (PI) level evaluation responsibilities shall also immediately notify MMC staff of such finding at the time of discovery. MMC staff will

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provide appropriate LDR staff contact for consultation.

d. **Notification of Completion**

The Paleontologist shall notify MMC and the RE of the end date of monitoring.

4. **POST CONSTRUCTION**

The Paleontologist shall be responsible for preparation of fossils to a point of curation as defined by the City of San Diego Paleontological Guidelines.

a. **Submit Letter of Acceptance from Local Qualified Curation Facility.**

The Paleontologist shall be responsible for submittal of a letter of acceptance to ERM of LDR from a local qualified curation facility.

b. **If Fossil Collection is not Accepted, Contact LDR for Alternatives**

If the fossil collection is not accepted by a local qualified facility for reasons other than inadequate preparation of specimens, the project Paleontologist shall contact LDR to suggest an alternative disposition of the collection.

c. **Recording Sites with San Diego Natural History Museum**

The Paleontologist shall be responsible for the recordation of any discovered fossil sites at the San Diego Natural History Museum.

d. **Final Results Report**

(1) For Public projects, within three months following the completion of grading/trenching, two copies of the Final Results Report (even if negative), which describes the results, analysis, and conclusions of the above Paleontological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR and one copy sent to the RE.

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