

RESOLUTION NUMBER R- 296946

ADOPTED ON AUG 05 2002

BE IT RESOLVED, by the Council of the City of San Diego, that it is hereby certified that Mitigated Negative Declaration LDR No.98-0799, 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 Seismic Retrofit of the West Mission Bay Drive Bridge Over Mission Bay Channel (Bridge No. 57C-426).

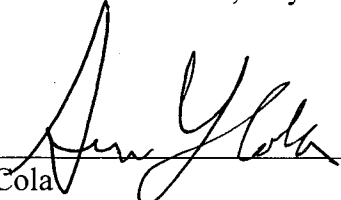
BE IT FURTHER RESOLVED, that the Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said LDR No. 98-0799 Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is hereby approved.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the Council hereby 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 as "Exhibit A" 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  _____
Susan Y. Cola
Deputy City Attorney

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Or.Dept: E&CP
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EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

CITY COUNCIL APPROVAL

LDR NO. 98-0799

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 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. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Mitigated Negative Declaration (LDR No. 98-0799) shall be made conditions of CITY COUNCIL APPROVAL as may be further described below.

Biological Resources

1. Prior to the issuance of a Notice to Proceed (NTP), the applicant shall provide a letter of verification to the Environmental Review Manager (ERM) of Land Development Review (LDR) stating that a qualified biologist as defined in the City of San Diego Biological Review References (November 2000), has been retained to implement the monitoring program. A SECOND LETTER SHALL BE SUBMITTED TO MITIGATION MONITORING COORDINATION (MMC) OF LDR AT LEAST THIRTY DAYS PRIOR TO THE PRECONSTRUCTION MEETING AND SHALL INCLUDE THE NAMES OF ALL PERSONS INVOLVED IN THE BIOLOGICAL MONITORING OF THIS PROJECT.
2. Prior to the start of construction, the Engineering and Capital Project Manager shall schedule a preconstruction meeting that shall include the Biologist, Construction Manager, Resident Engineer (RE), MMC, and Parks and Recreation Department. AT THE PRECONSTRUCTION MEETING THE BIOLOGIST SHALL SUBMIT TO MMC A COPY OF THE SITE PLAN (REDUCED TO 11X17) THAT IDENTIFIES AREAS TO BE MONITORED. THE BIOLOGIST SHALL ALSO NOTIFY MMC OF THE START AND END OF MONITORING
3. Prior to the preconstruction meeting, the Environmental Review Manager of the Land Development Review Division (LDR) shall verify that the construction drawings and contract specifications incorporate the MMRP, which will contain the following biological mitigation, monitoring and reporting program requirements:
 - a. 120-days prior to the preconstruction meeting, E&CP shall provide a letter of verification to the MMC stating that a qualified biologist as defined in the City of San Diego Biological Review References (November 2000), has been retained to implement the required eelgrass mitigation program for this project. The eelgrass mitigation program shall consist of pre and post construction surveys of eelgrass habitat within the project boundaries based on the report entitled "Environmental Site Investigations for the West Mission Bay Drive Bridge Seismic Retrofit Project, San Diego, California," dated March 27, 1998, and updated August 2, 2001 prepared by Merkel & Associates, Inc.. All project impacts to eelgrass shall be mitigated through onsite transplantation at a 1.2:1 ratio (in accordance with the Southern California Eelgrass Mitigation Policy) within the Mission Bay Eelgrass Mitigation Bank. If the attempt for onsite mitigation fails then mitigation credits shall be extracted from the Mission Bay Eelgrass Mitigation Bank at a 1.2:1 ratio.

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- b. Within 120 days prior to the preconstruction meeting, E&CP shall submit to the Senior Planner of the Mitigation Monitoring Coordination (MMC) program, 2 copies of a preconstruction eelgrass survey report prepared by a qualified biologist, to document the extent of and percent coverage of eelgrass within the project impact areas.
 - c. 30-days prior to the start of construction, the E&CP Project Manager shall submit to MMC copies of all state and federal permits obtained for the proposed construction work within the Mission Bay Channel and a final eelgrass transplantation plan which outlines the proposed eelgrass mitigation program. Prior to the preconstruction meeting, the final plan shall be reviewed and approved by all appropriate state and federal agencies and MMC and shall identify the eelgrass donor and mitigation control sites, the transplantation receiver site(s), planting plan, transplant method, monitoring program, and mitigation success criteria. The plan shall be submitted at the preconstruction meeting and will include the project drawings reduced to 11x17 and the project work schedule including identification of when and where work would occur.
 - d. Upon completion of the transplantation work, a monitoring program shall be initiated and shall continue for a 60-month (5-year) period, to be carried out by a qualified biologist. If the transplantation success is not achieved then mitigation credits shall be debited from the Mission Bay Eelgrass Mitigation Bank. Monitoring reports shall be submitted to MMC for review and approval at the following intervals: 120 days after completion of the transplantation, then 6 months after the first monitoring report, then annually until the 5 year monitoring period has concluded.
 - e. Within 30 days after the completion of project construction, a post construction eelgrass survey shall be conducted by a qualified biologist and a report documenting the findings of the survey submitted to MMC. The report shall delineate and quantify the extent of eelgrass impacts that resulted from project construction and shall specify the total amount of mitigation that is required for the project.
 - f. E&CP shall comply with the following requirements:
 - i. A letter of notification along with a schedule of mitigation activities shall be provided to MMC, California Coastal Commission, U.S. Army Corps of Engineers, California Department of Fish and Game, National Marine Fisheries Service, and U.S. Fish and Wildlife Service ten or more days prior to the start of the mitigation work.
 - ii. Monitoring reports shall be submitted to MMC, California Coastal Commission, U.S. Army Corps of Engineers, California Department of Fish and Wildlife Service for each monitoring interval within thirty days of the completion of monitoring surveys.
 - iii. At the conclusion of the 5 year monitoring, MMC shall be contacted for final observation and release of bond.
4. Prior to the start of construction, a silt curtain shall be placed around the immediate construction areas as determined by the project biologist to protect eelgrass and water quality in Mission Bay. The design, placement selection, and installation of the silt curtain shall be coordinated with the E&CP project manager, City resident engineer, construction manager, project biologist to ensure that the curtain is functional in its protection of eelgrass resources. Installation shall occur under the supervision of MMC personnel.

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5. 30-days prior to the preconstruction meeting, a letter shall be sent to MMC of LDR to ensure that construction, or parking and/or storage of heavy equipment within the staging area shall not occur from April 1 through September 15, to avoid impacts during the breeding season for the endangered California least tern.
 - a. If construction is proposed during the breeding season, a copy of a letter of concurrence from the U.S. Fish and Wildlife Service and California Department of Fish and Game shall be submitted to MMC 30-days prior to the preconstruction meeting.
 - b. If construction is required during the breeding season (after April 1) for the California least tern then appropriate mitigation measures shall be implemented prior to the start of construction to reduce construction noise impacts. 30-days prior to the preconstruction conference a qualified acoustician in accordance with the City of San Diego Acoustical Report Guidelines and in coordination with the project biologist shall prepare and submit to MMC a noise impact analysis including recommendations to reduce construction noise impacts to below significance. Copies of the report shall be forwarded to the U.S. Fish and Wildlife Service and California Department of Fish and Game for review. The noise level shall be measured from the edge of the least tern buffer areas and shall not exceed the one hour average noise level of 60dB(A) Community Noise Level Equivalent (CNEL) without aircraft noise. Continuous monitoring at the edge of the buffer area shall occur to ensure noise levels are reduced to below significance. If adequate noise mitigation cannot be implemented to reduce construction noise below 60dB(A), all construction activities shall cease. The biological monitor in consultation with the wildlife agencies and MMC shall determine when construction activities can resume.
 - c. If during construction within the least tern breeding season the construction monitor, project biologist, and MMC determine that adverse impacts are occurring to the least tern colony, the staging area and all bridge seismic retrofit work shall be abandoned.
 - d. If construction shall occur at night during the breeding season, the project biologist in coordination with the E&CP Project Manager, Resident Engineer, and Construction Manager shall adjust, position, and shield all work lights away from the least tern habitat preserve area. The E&CP Project Manager shall notify MMC of LDR at least 30-days prior to commencement of any night-time construction.
6. 30-days prior to the preconstruction meeting, a qualified biologist shall submit a report to MMC that determines the potential for sensitive bird species protected under the Migratory Bird Treaty Act to occur within or adjacent to the project impact area throughout the anticipated construction period. If any areas are identified as having the potential to be breeding, roosting or foraging areas for such species, including the rip rap below the West Mission Bay Drive Bridge located along the northern and southern shores of the Mission Bay Channel, a qualified biologist shall identify appropriate construction buffers. The biologist shall obtain concurrence of the appropriate construction buffers and shall be shown on the construction drawings for review and approval by appropriate state and federal agencies, and MMC. A copy of the letter of concurrence shall be submitted to the Resident Engineer, MMC, Project Engineer, and appropriate state and federal agencies.
 - a. A note shall be included on the project plans stating the following: **THE CALIFORNIA LEAST TERNS AND CALIFORNIA BROWN PELICANS ARE LISTED AS ENDANGERED SPECIES UNDER THE CALIFORNIA**

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ENDANGERED SPECIES ACT AND "FULLY PROTECTED" UNDER FISH AND GAME CODE SECTION 3511.

7. Prior to the preconstruction meeting, a site plan shall be submitted to MMC that shows the location of the staging area to ensure the location is situated away from the least tern breeding colony preserve on Mariner's Point.
 - a. Fencing shall be placed on the perimeter of the staging area prior to the start of any construction work. The staging area site plan shall note the requirement for fencing year round. Fencing shall be 8-10 feet in height and shall be covered with a mesh barrier that prevents sight onto the staging area. No items that could be used as perch sites for raptors shall be allowed on the fence or buildings.

Water Quality

8. Prior to E&CP approval of the project drawings, the E&CP Project Manager shall obtain a letter from the Environmental Review Manager that verifies the construction drawings and contract specifications include adequate notes which state the following mitigation measures:
 - a. That pile driving operations related to the bridge retrofit construction activities shall comply with applicable permit conditions of the U.S. Army Corps of Engineers, Regional Water Quality Control Board, State Lands Commission, and California Coastal Commission, and City of San Diego.
 - b. That construction equipment/vehicle fuels, lubricants, solvents and/or associated cleaning and rinsing facilities shall be stored and occur on land. Refueling shall not occur over the boat channel or open waters. Appropriate precautionary measures shall be implemented to prevent spillage of hazardous materials into channel waters.
 - c. 30-days prior to the preconstruction meeting and prior to issuance of the Notice to Proceed, a letter shall be sent to MMC that identifies the name and location of an approved disposal site. All collected soils (sediments/mud from drilling/dredging) and demolished concrete shall not be released into the Mission Bay Channel; all excavated soils shall be stored and disposed at an approved upland site prior to completion of construction activities each day. A record of such disposal shall be readily available for review at the request of the MMC personnel. Copies of disposal records shall be sent to MMC at the end of each month. Prior to pumping, standing water within the pile casings shall be allowed to stand to minimize the unintentional/incidental release of drilled dredged sediments back into the waters of the Mission Bay.

General

9. Upon completion of all construction work, all temporary access piers and piles shall be removed. All construction staging areas shall be restored to preconstruction conditions.

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