

RESOLUTION NUMBER R- 298989

ADOPTED ON MAR 23 2004

WHEREAS, the City of San Diego, Engineering and Capital Projects, Owner and Permittee, submitted an application to the City of San Diego for a Site Development Permit No. 7023 for the Rose Creek Bike Path and Pedestrian Bridge project; and

WHEREAS, the matter was set for a public hearing to be conducted by the Council of the City of San Diego; and

WHEREAS, the issue was heard by the City Council on MAR 23 2004; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 4411; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 4411, 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 Rose Creek Bike Path and Pedestrian Bridge project.

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

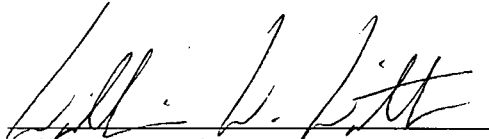
Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved.

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



William W. Witt
Deputy City Attorney

WWW:cdk:pev
11/19/03
02/26/04 COR.COPY
Or.Dept: DSD
R-2004-592

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

ROSE CREEK BIKE PATH AND PEDESTRIAN BRIDGE PROJECT NO. 4411

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 Mitigated Negative Declaration No. 4411 shall be made conditions of the Site Development Permit as may be further described below.

MITIGATION, MONITORING AND REPORTING PROGRAM:

The following mitigation measures are required to reduce potentially adverse impacts to biological resources, hydrology/water quality, hazardous materials, and historical resources due to project implementation.

Biological Resources

1. Thirty days prior to the preconstruction meeting, a qualified biologist shall submit a report that determines the potential for sensitive bird species, including the California least tern and 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 along the banks of Rose Creek adjacent to the project site, a qualified biologist shall assist in identifying appropriate construction buffers. If the California least tern is found, construction would be halted for the duration of their migratory and breeding season (April 1 to September 15).

Hydrology/Water Quality

Water quality is affected by sedimentation caused by erosion, runoff carrying contaminants, and direct discharge of pollutants (point-source pollution). Appropriate pre- and post-construction storm water Best Management Practices [BMPs] must be incorporated into the project which would be adequate to reduce water quality impacts to below a level of significance. The applicant shall fully mitigate this impact as follows:

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1. Prior to the first preconstruction meeting or the commencement of any construction, the applicant shall provide a site plan (Exhibit "A") to the Environmental Review Manager of LDR for review and approval that identifies construction Best Management Practices [BMP's], prepared consistent with the City of San Diego *Storm Water Standards* manual.
2. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 and the Municipal Storm Water Permit, order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.
3. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99-08-DWQ.
4. All development, public and private, shall meet or exceed the stormwater standards of the State of California, and the most recent standards of the Regional Water Quality Control Board with regard to stormwater runoff, and any amendment to, or re-issuance therefore.
5. The SWPPP shall identify all applicable erosion control devices to be used during construction. These may include (but may not be limited to) earthen berms, gravel bags, silt fences, temporary storm drains, desilting basins, energy dissipating devices, bladed swales, geotextile mats, plastic sheeting, and hydroseeding or other vegetation and irrigation practices. The SWPPP and grading plan shall include a drainage system which provides for implementation of Best Management Practices [BMPs] on-site to reduce construction phase runoff of pollutants into Mission Bay and other waters.
6. The SWPPP shall include a site plan on which the grading footprint (development area) is identified as shown on the approved exhibit. All construction activities (including staging areas) shall be restricted to the development area. Specified vehicle fueling, maintenance procedures, and hazardous materials storage areas shall be clearly designated to preclude the discharge of hazardous materials used during construction (e.g., fuels, lubricants, solvents). The SWPPP shall include measures to preclude spills and provide for the containment of any hazardous materials, including proper handling and disposal techniques and the use of temporary impervious liners to prevent soil and water contamination.

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7. Grading shall be minimized during the rainy season (October 31 to April 1). If grading is conducted during this period, the Contractor shall install temporary erosion control measures such as silt fences, hay bales, debris basins, etc., as required by the City Engineer to prevent erosion damage.
8. A maintenance and follow-up program shall be implemented which considers: disposal locations for sediment removed from control structures, wet-weather emergency plans, a 24-hour phone maintenance person contact, methods and the responsible party for removal of temporary control structures.
9. The owner/permittee shall hydroseed all applicable areas in accordance with the SWPPP to the satisfaction of the Environmental Review Manager of LDR in conformance with the requirements of the City's Landscape Standards.

Hazardous Materials

1. Prior to disposal or reuse, soil excavated along the creek banks shall be sampled and analyzed in accordance with the Department of Environmental Health [DEH] Site Assessment and Mitigation Manual. In the event that hazardous materials are detected, contaminated soil is to be disposed of per DEH regulations.
2. Prior to discharge, water from dewatering activities along Rose Creek shall be sampled and analyzed in accordance with California Regional Water Quality Control Board (RWQCB) guidelines. In the event that hazardous materials are detected, contaminated water is to be disposed of per RWQCB regulations.

Historical Resources (Archaeology)

Prior to Preconstruction (Precon) Meeting

1. Land Development Review [LDR] Plan Check
 - a. Prior to the issuance of a Notice to Proceed [NTP] or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Environmental Review Manager [ERM] of LDR shall verify that the requirements for archaeological monitoring and Native American monitoring, if applicable, have been noted on the appropriate construction documents.
2. Letters of Qualification have been submitted to ERM
 - a. Prior to the recordation of the first final map, NTP, and/or, including but not limited to, issuance of a Grading Permit, Demolition Permit or Building Permit, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Archaeologist, as defined in the City of San Diego Historical

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Resources Guidelines [HRG], has been retained to implement the monitoring program.

3. Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination [MMC]
 - a. At least thirty days prior to the Precon Meeting, a second letter shall be submitted to MMC which shall include the name of the Principal Investigator [PI] and the names of all persons involved in the Archaeological Monitoring of the project.
 - b. MMC will provide Plan Check with a copy of both the first and second letter.
4. Records Search Prior to Precon Meeting
 - a. At least thirty days prior to the Precon Meeting the qualified Archaeologist shall verify that a records search has been completed and updated as necessary 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 South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.

Precon Meeting

1. Monitor Shall Attend Precon Meetings
 - a. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Archaeologist, Construction Manager and/or Grading Contractor, Resident Engineer [RE], Building Inspector [BI], if appropriate, and MMC. The qualified Archaeologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
 - b. If the Monitor is not able to attend the Precon Meeting, the RE or BI, if appropriate, 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.
2. Identify Areas to be Monitored
 - a. At the Precon Meeting, the Archaeologist 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.

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3. When Monitoring Will Occur

- a. Prior to the start of work, the Archaeologist shall also submit a construction schedule to MMC through the RE or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.

During Construction

1. Monitor Shall be Present During Grading/Excavation

- a. The qualified Archaeologist shall be present full-time during grading/excavation of native soils and shall document activity via the Consultant Site Visit Record. This record shall be sent to the RE or BI, as appropriate, each month. The RE, or BI as appropriate, will forward copies to MMC.

2. Discoveries

a. Discovery Process

In the event of a discovery, and when requested by the Archaeologist, or the PI if the Monitor is not qualified as a PI, the RE or BI, as appropriate, 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 PI shall also immediately notify MMC of such findings at the time of discovery. MMC will coordinate with appropriate LDR staff.

b. Determination of Significance

The significance of the discovered resources shall be determined by the PI 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, approved by DSD and carried out to mitigate impacts before ground disturbing activities in the area of discovery will be allowed to resume.

3. Human Remains

- a. If human remains are discovered, work shall halt in that area and the following procedures set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) will be taken:

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b. Notification

- (1) Archaeological Monitor shall notify the RE or BI as appropriate, MMC and the PI if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section [EAS].
- (2) The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

c. Isolate discovery site

- (1) Work will be redirected from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.
- (2) The Medical Examiner, in consultation with the PI, shall determine the need for a field examination to determine the provenience.
- (3) If a field examination is not warranted, the Medical Examiner shall determine, with input from the PI, if the remains are or are most likely to be of Native American origin.

d. If Human Remains are determined to be Native American

- (1) The Medical Examiner shall notify the Native American Historic Commission [NAHC]. By law, **ONLY** the Medical Examiner can make this call.
- (2) The NAHC will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination.
- (3) NAHC will identify the person or persons determined to be the Most Likely Descendent [MLD] and provide contact information.
- (4) The PI will coordinate with the MLD for additional coordination.
- (5) Disposition of Native American human remains will be determined between the MLD and the PI, 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 in accordance with PRC 5097.94 (k) by the

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NAHC fails to provide measures acceptable to the landowner, the landowner or their authorized representative shall re-inter the human remains and all associated grave goods with appropriate dignity, on the property in a location not subject to subsurface disturbance. Information on this process will be provided to the NAHC.

e. If Human Remains are **NOT** Native American

- (1) The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
- (2) The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
- (3) If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for reinterment of the human remains shall be made in consultation with MMC, EAS, the land owner and the Museum of Man.

4. Night Work

a. If night work is included in the contract

- (1) When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
- (2) The following procedures shall be followed.

(a) No Discoveries

In the event that nothing was found during the night work, the PI will record the information on the Site Visit Record Form.

(b) Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures under **During Construction; 2., a. & b.**, will be followed, with the exception that the PI will contact MMC by 8AM the following morning to report and discuss the findings.

b. If night work becomes necessary during the course of construction

- (1) The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.

(2) The RE, or BI, as appropriate, will notify MMC immediately.

c. All other procedures described above will apply, as appropriate.

5. Notification of Completion

a. The Archaeologist shall notify MMC and the RE or the BI, as appropriate, in writing of the end date of monitoring.

Post Construction

1. Handling and Curation of Artifacts and Letter of Acceptance

a. The Archaeologist 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. Curation of artifacts associated with the survey, testing and/or data recovery for this project shall be completed in consultation with LDR and the Native American representative, as applicable.

2. Final Results Reports (Monitoring and Research Design and Data Recovery Program)

a. Prior to the release of the grading bond, 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 ERM of LDR.

b. For significant archaeological resources encountered during monitoring, the Research Design and Data Recovery Program shall be included as part of the Final Results Report.

c. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.

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

a. The Archaeologist 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 with the Final Results Report.

The environmental mitigation measures listed above shall be shown on the construction plans or referenced under the heading, "Environmental Requirements."

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