

RESOLUTION NUMBER R-300861

ADOPTED ON SEPTEMBER 20, 2005

WHEREAS, San Dieguito River Park Joint Powers Authority, Permittee, filed an application with the City of San Diego for a site development permit to construct a 990-foot long pedestrian/bicycle bridge and related trail connections across Lake Hodges linking the Lake Hodges North Shore Trail with the Bernardo Bay trail staging area and Piedras Pintadas Trail known as the Lake Hodges Pedestrian/Bicycle Bridge project, located at Lake Hodges Reservoir, west of Interstate 15, south of Via Rancho Parkway, and northwest of West Bernardo Drive, and legally described as the east half of the northeast quarter of Section 7; the east half of the southeast quarter of Section 7; the west half of the northwest quarter and the west half of the southwest quarter of Section 8; the northeast quarter of the northeast quarter of Section 18, all in Township 13 South, Range 2 West, San Bernardino Meridian, except that portion thereof lying above an elevation of 330 feet above sea level according to the United States Geological Survey datum, in the Rancho Bernardo and San Pasqual Community Plan areas, in the AR-1-1 zone; and

WHEREAS, on June 9, 2005, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 193075, and pursuant to Resolution No. 3786-PC voted to approve the Permit; and

WHEREAS, Marc D. Lindshield, Chairman of the Lake Hodges Community Planning Group appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on September 20, 2005, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 193075:

A. SITE DEVELOPMENT PERMIT - SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The adopted San Pasqual Valley Plan's Park and Recreation Element envisioned the future establishment of a pedestrian/bicycle bridge across Lake Hodges (page 57) as well as providing a continuous multi-use trail corridor extending east/west through the valley. The adopted Rancho Bernardo Community Plan and San Dieguito River Regional Plans also provide for multi-use trails to create pedestrian access from the adjacent residential areas to the recreational areas such as Lake Hodges. Furthermore, the bridge is also identified as a "top priority" Class I bicycle transportation facility in the City's Bicycle Transportation Plan (2001). Therefore, the proposed pedestrian/bicycle bridge and associated trail connections are consistent with the applicable land use plans.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed project has been designed and would be constructed to meet all applicable development, environmental, and building codes in accordance with all federal, state, and municipal codes and regulations. The project has been reviewed in accordance with the California Environmental Quality Act [CEQA] Guidelines, whereby an Environmental Initial Study determined that the project could have significant effect on the environment. Mitigation, Monitoring and Reporting Program has been prepared and would be implemented which would reduce any potential impacts identified within the environmental review process to below a level of significance. Therefore, the proposed development will not be detrimental to the public health, safety and welfare.

c. The proposed development will comply with the applicable regulations of the Land Development Code. The proposed project will comply with the regulations of the Land Development Code and in particular the standards contained within the AR-1-1 zone. Deviations are requested for unavoidable impacts to the wetlands associated with the bridge spanning across the lake. However, the project as proposed has minimized the environmental impacts to achieve the least damaging practical alternative of this type of development. Furthermore, the permit prepared includes various conditions and exhibits of approval relevant to achieving compliance with the regulations of the Land Development Code.

2. Supplemental Findings – Environmentally Sensitive Lands

a. **The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.** Several alternative alignments were evaluated and a detailed visual assessment was conducted to evaluate the impact of the project on the surrounding area. No alternative alignments would completely have avoided impacts to wetlands. The proposed project would impact 0.77 acre of wetlands, 0.05 acre of permanent impact and 0.72 acre of temporary impact. These wetland communities include southern willow scrub and reservoir (southern willow scrub/disturbed wetland). The majority of wetland impacts are temporary (from the temporary construction access road in the lakebed) and impacts were kept to a minimum through avoidance of wetland habitat wherever possible.

The proposed “stress-ribbon” bridge design allows a thin bridge profile (approximately 1 foot-4 inches) and minimizes the number of piers in the lake to two. The thin bridge profile and narrow width (outside dimension of 14 feet) and bridge “sag” create a concrete ribbon across the lake that resembles a trail. The bridge would also have a low profile above the water. The bridge height above the lake level would vary across each segment of the structure (from 10 feet to 17.9 feet) above the lake spillway elevation (315 feet). The concrete would be colored an earthtone shade to match the surrounding landscape to minimize glare. On the south side a cantilever (or viaduct) is used instead of a large retaining wall that would have appeared massive and greatly contrasted with the surrounding landscape. To augment native willows that exist along the slope, new willow trees will be planted to partially obscure the cantilever piers.

Other project features to minimize the effects on the adjacent environmentally sensitive lands include:

- Steel railings that will be nearly invisible in the distance. This railing type was designed to provide a light transparent look so that the railings do not dominate the bridge design and to allow views through to the lake from the bridge sides. Bridge users will be able to see the lake and surroundings through the railings and likewise viewers of the bridge will not see a heavy solid structure.
- Use of shielded lights that are directed onto the bridge surface only.
- On the south side of the project for the trail along the lakeshore a cantilever will be used for the bike path/trail instead of a large retaining wall. Cantilever piers will be screened with native willow vegetation to blend with the surrounding habitat.
- Use of a hardened soil surface (instead of concrete or asphalt) for the bike path along West Bernardo Drive. This surface will blend with the adjacent slopes.
- Retention of existing native soil surface on the Hodges North Shore Trail.

- Use of rustic materials, such as rock and wood, and “warm-colored” earthtone concrete for the interpretive viewing areas.
- Revegetate all areas disturbed by construction activities with native species to blend with the surrounding landscape.

The project as proposed will result in minimum disturbance to environmentally sensitive lands.

b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The development does not propose the alteration of natural land forms. The bridge would be approximately 990 feet long with two support piers situated in the lake. Each pier would rest on a 19-foot by 24-foot footing supported by 20 drilled, pre-cast, pre-stressed concrete piles that would be fabricated off-site and positioned in the lake by a crane. The piles and footings would be buried below the existing grade of the lakebed bottom. The proposed bridge type, called a “stress ribbon” design, would consist of a series of precast concrete panels strung along cables extended across the lake. The cables would be anchored into each abutment using rock anchors and “stressed” with tension at each abutment to create a rigid, continuous bridge platform.

The north abutment would be a below-grade concrete structure approximately 31- by 36-feet in size. Permanent below-grade rock anchors would be installed to secure the abutment and bridge cables structurally. Riprap would be placed down slope of the abutment at the toe of the lakeshore to provide scour protection. The southern bridge abutment would be below-grade and would be approximately 26 feet long by 31 feet wide and about 10 feet deep. A total of four 9-foot diameter shafts would be drilled into the soil below grade to structurally support the abutment and cables. The bridge abutment would connect to the proposed Class I bike path to be constructed along West Bernardo Drive. Riprap would be installed down slope of the abutment at the toe of the lakeshore to protect the structure from scour.

A Class I bike path consisting of an 8-foot wide bicycle path with 2-foot wide shoulders on each side would be constructed from the southern bridge abutment southwestward, along the northwest shoulder of West Bernardo Drive, connecting to the Bernardo Bay staging area and terminating at the construction staging area, approximately 900 feet north of the Rancho Bernardo Community Park entrance, for a total distance of 1790 linear feet. The first 690 linear feet of the bike path along the lakeshore would be placed on a concrete slab cantilevered over the lakeshore and supported by a series of 18-inch diameter pre-cast concrete piles at 15 feet on center (i.e., approximately 48 piles total). The cantilevered structure or viaduct would extend approximately six feet beyond the lakeshore, partially hiding the piles from view and providing seating opportunities for trail users. The existing slope along the lakeshore would be planted with native willows in front of the concrete piles to further screen them from view. The existing slope along the lake side of West Bernardo Drive is made of engineered fill that was placed there when West Bernardo Drive was constructed. The existing slope is unstable and will be stabilized prior to the cantilevered bike path being installed.

A geologic site-specific investigation was performed on the subject property. It was determined that proper engineering design of all new structures would ensure that the potential for geologic impacts from regional hazards would not be significant.

Erosion and sedimentation potential would be generally low in most developed portions of the project site, due to the stabilizing effects of proposed paving, habitat restoration and landscaping. No long-term erosion and sedimentation impacts are anticipated. The project design includes the use of riprap armoring around exposed portions of the abutments. These measures would minimize associated potential long-term erosion impacts.

The proposed bridge design includes portions of two support piers located within the lakebed. The abutments, piers and related facilities (i.e., pier footings and riprap armor) would produce some effects related to the displacement of water and an associated increase in lake/river flood elevations, as well as the redirection/deflection of flows at the abutment and pier structures. These effects are not expected to result in any notable changes to surface water/floodplain elevations or flow directions/velocities.

The development will not cause any condition that would expose the area to fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The proposed development will not impact adjacent environmentally sensitive lands. The project will be constructed during the non-breeding season for sensitive birds and biological monitoring will be required during all phases of construction.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan. The proposed project is within the boundaries of the MSCP Subarea Plan and is subject to the policies and directives of the plan. The directives that apply and the projects' conformance are as follows:

- Contain active recreational uses in areas determined appropriate in the San Dieguito River Park Concept Plan and by the City. The project is consistent with the San Dieguito River Park Concept Plan, which includes the Lake Hodges Bridge project as a park proposal. The project trails follow existing trail routes (e.g., the North Shore Trail) and/or follow West Bernardo Drive to direct trail users away from sensitive species. The project will control off-trail activities through trail design, trail patrol, fencing, and/or signage as necessary.
- Restrict public use of steep slopes. Any trail system developed on the south side of the reservoir should use the existing utility road and minimize impacts on sensitive resources. Provide signage identifying appropriate trails, and take necessary measures to protect habitat and direct access to approved use areas. The project aligns the trails within existing dirt roads and trails to the extent feasible (e.g., North Shore Trail).

The project will control off-trail activities through trail design, fencing, and/or signage as necessary.

- Minimize trail widths to reduce impacts to critical resources. For the most part, do not locate trails wider than 4 feet in core areas and wildlife corridors. The project trails follow existing trail routes (e.g., North Shore Trail) and/or follow West Bernardo Drive to direct trail users away from sensitive species. The trails will be 8 feet wide in order to accommodate bicycles and pedestrians.
- Manage public use of mitigation lands on the slopes north of the reservoir in a manner consistent with the habitat function and mitigation requirements. Split rail or wire fencing may be constructed adjacent to the roadside or public areas to accommodate wildlife movement. The project will control off-trail activities through trail design, fencing, and/or signage as necessary.
- Direct public access to authorized trails with signage and barriers. The project will control off-trail activities through trail design, fencing, and/or signage as necessary.
- Regularly monitor and maintain the shores and uplands of Lake Hodges for litter and invasive non-native plant species and off-trail use including motorized vehicle activity. Remove and dispose of litter and invasive non-native plants as soon as possible. The Joint Powers Authority [JPA] monitors and maintains the San Dieguito River Park trail system including litter control and off trail use. The JPA also conducts regular exotic species control and trail closures when appropriate. All litter encountered during construction and all invasive non-native plants removed during project mitigation will be removed from the site and disposed of in a safe and legal manner.
- Utilize the existing fire maintenance road along the north shore of the reservoir as the trail system and avoid cutting new trails through native habitats, especially between the marina and I-15. The project trails follow existing trail routes (e.g., North Shore Trail) and/or follows West Bernardo Drive to avoid cutting new trails through native habitats.
- Use non-impactive erosion control methods to repair areas experiencing erosion. Re-seed and restore these areas as soon as possible. The project will use Best Management Practices during construction (e.g., fiber rolls) to control erosion and will revegetate disturbed areas with native vegetation post-construction.

The development as proposed is consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan.

e. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The project is not located in the coastal area. The project site is located just west of Interstate 15, north of West Bernardo Drive, and at least 10 miles east of Interstate 5. Therefore, the proposed development will not contribute to the erosion of public beaches or impact local shoreline sand supply.

f. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** The impacts that have been identified to sensitive habitat would be mitigated through measures and ratios which have been established within the City's Biological Guidelines. These impacts would be mitigated through the combination of on-site monitoring and restoration, off-site habitat creation and enhancement within Multi-Habitat Preservation Area lands, and payment into the City's Habitat Acquisition Fund in conformance with these Biological Guidelines. The JPA would be required to provide this mitigation as a condition of the site Development Permit.

3. Supplemental Findings--Environmentally Sensitive Lands Deviations

a. **There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.** The proposed bridge over Lake Hodges will impact wetlands habitat. No alternative alignments would completely have avoided impacts to wetlands. The proposed project would impact 0.77 acre of wetlands, 0.05 acre of permanent impact and 0.72 acre of temporary impact. These wetland communities include southern willow scrub and reservoir (southern willow scrub/disturbed wetland). The majority of wetland impacts are temporary (from the temporary construction access road in the lakebed) and impacts were kept to a minimum through avoidance of wetland habitat wherever possible. The project design has incorporated all feasible measures to minimize impacts to environmentally sensitive lands and there are no other feasible measures that can further minimize the potential adverse effects to sensitive resources.

b. **The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.** The lakebed area is considered wetlands and the project cannot avoid some impact to wetlands. Impacts to the reservoir deserve special consideration because the actual vegetation impacted depends on the amount of water in the reservoir at the time the project is constructed. The project area would be inundated at least temporarily depending upon rainfall. However, it is expected that the project would be constructed when the reservoir is dry.

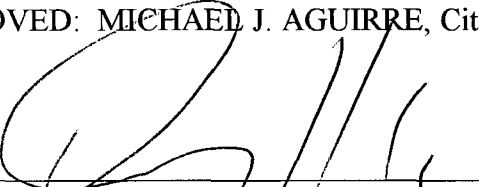
The City of San Diego has a "no-net loss" policy regarding wetlands. A mitigation plan for wetland impacts was developed in cooperation with the City of San Diego for this project and is intended to mitigate wetland impacts through a program of on-site and off-site wetland habitat enhancement and restoration. The wetland restoration plan is contained in the Biology Technical Report (July 2004).

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that the appeal of Marc D. Lindshield, Chairman of the Lake Hodges Community Planning Group is denied; the decision of the Planning Commission is sustained; and Site Development Permit No. 193075 is granted to San Dieguito River Park Joint Powers Authority, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:pev
10/03/05
Or.Dept:Clerk
R-2005-283
MMS #2526

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NO. 42-0870

SITE DEVELOPMENT PERMIT NO. 193075
LAKE HODGES PEDESTRIAN/BICYCLE BRIDGE [MMRP]
CITY COUNCIL

This site development permit is granted by the Council of the City of San Diego to the San Dieguito River Park Joint Powers Authority, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0501. The 2.2-acre site is located at Lake Hodges Reservoir, west of Interstate 15, south of Via Rancho Parkway, and northwest of West Bernardo Drive in the AR-1-1 zone(s) of the Rancho Bernardo and San Pasqual Community Plan areas. The project site is legally described as the east half of the northeast quarter of Section 7; the east half of the southeast quarter of Section 7; the west half of the northwest quarter and the west half of the southwest quarter of Section 8; the northeast quarter of the northeast quarter of Section 18, all in Township 13 South, Range 2 West, San Bernardino Meridian, except that portion thereof lying above an elevation of 330 feet above sea level according to the United States Geological Survey datum.

Subject to the terms and conditions set forth in this Permit, permission is granted to Permittee to construct a 990-foot long pedestrian/bicycle bridge and related trail connections across Lake Hodges linking the Lake Hodges North Shore Trail with the Bernardo Bay trail staging area and Piedras Pintadas Trail, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 20, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. Across Lake Hodges, a 990-foot long, 14-foot wide, stress ribbon bridge structure with two piers in the lake and concrete abutments at either end;
- b. On the north side of the lake, the North Shore Trail realigned to accommodate the bridge abutment. Approximately 400 linear feet of the trail would be resurfaced with a nonpermeable polymer binder mixed with decomposed granite to create an 8-foot-wide smooth hardened surface, and 150 feet of trail that follows the alignment of old Highway 395 would be repaired with asphalt patches and/or new asphalt, depending on the

current level of asphalt deterioration, to create a smooth riding surface for bicycles and retain the highway alignment;

- c. On the south side of the lake, the construction of a 1,760 linear foot Class I bike path and trail connection from the southern bridge abutment along the shoulder of West Bernardo Drive to the Bernardo Bay trail staging area. A 690-foot section of the Class I bike path would cantilever over the lakeshore on a concrete slab transitioning to the bike path along West Bernardo Drive. Adjacent to West Bernardo Drive, the bike path surface would transition from concrete to non-permeable polymer binder mixed with decomposed granite to create a natural looking, smooth riding surface for bicycles;
- d. Landscaping (planting, irrigation and landscape related improvements); and
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.
- c. The Permittee acquires all necessary property rights to construct the project from the City of San Diego through the Real Estate Assets Department, including rights to the project site that address conditions for operation of the bridge and facilities (security issues, hours of operation, locking gates, public information features, watershed signage, trash receptacles, etc.), and a Right-of-Entry Permit for construction staging and temporary access across City-owned property. Granting of this Permit

does not obligate the City of San Diego with respect to property right acquisition.

3. The property included by reference within this Permit shall be used by Permittee only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO 18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.
8. The Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
9. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in

substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/ Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

12. As conditions of Site Development Permit No. 193075, the mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 5429/SCH No. 2005011085 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 5429/SCH No. 2005011085 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Biological Resources
- Cultural Resources
- Geology and Soils

14. Prior to the issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of the permit compliance monitoring.

15. Horses are not permitted on the bridge.

16. The bridge hours of operation and lighting shall be from 6:00 a.m. to 9:00 p.m.

17. Bridge gates shall be installed and the bridge will be locked from 9:00 p.m. to 6:00 a.m.

18. If Permittee intends to satisfy off-site wetland mitigation requirements at Cloverdale Creek (a minimum of five years until success is achieved), Permittee shall obtain the necessary property rights from the City of San Diego prior to issuance of any construction permits. If Permittee does not obtain the necessary property rights for Cloverdale Creek from the City of San Diego, the Permittee shall, within sixty days of notice from the City that property rights to Cloverdale Creek are not granted, provide mitigation as provided in MMRP Measure B2 at a comparable site. The Permittee shall prepare a detailed wetland mitigation plan (based on the Conceptual Wetland Mitigation Plan, dated March, 2005) in conformance with the City of San Diego Biological Guidelines for the proposed site. This Wetland Mitigation Plan shall be submitted to the Assistant Deputy Director of LDR for review prior to approval of the site. All maintenance and monitoring work shall be done by a qualified and licensed wetland specialist.

**ADDITIONAL MITIGATION, MONITORING AND REPORTING
CONDITIONS**

COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

19. Prior to the issuance of any grading permit the City Manager (or appointed designee) shall verify that the Multi-Habitat Planning Area [MHPA] boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MARCH 1 AND AUGUST 15, THE BREEDING SEASON OF THE COASTAL CALIFORNIA GNATCATCHER, UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:

- A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(a)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE HABITAT AREAS WITHIN THE MHPA THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE COASTAL CALIFORNIA GNATCATCHER. SURVEYS FOR THE COASTAL CALIFORNIA GNATCATCHER SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION. IF

GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING
CONDITIONS MUST BE MET:

- I. BETWEEN MARCH 1 AND AUGUST 15, NO CLEARING, GRUBBING, OR GRADING OF OCCUPIED GNATCATCHER HABITAT SHALL BE PERMITTED. AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; AND
- II. BETWEEN MARCH 1 AND AUGUST 15, NO CONSTRUCTION ACTIVITIES SHALL OCCUR WITHIN ANY PORTION OF THE SITE WHERE CONSTRUCTION ACTIVITIES WOULD RESULT IN NOISE LEVELS EXCEEDING 60 dB(A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED GNATCATCHER HABITAT. AN ANALYSIS SHOWING THAT NOISE GENERATED BY CONSTRUCTION ACTIVITIES WOULD NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED HABITAT MUST BE COMPLETED BY A QUALIFIED ACOUSTICIAN (POSSESSING CURRENT NOISE ENGINEER LICENSE OR REGISTRATION WITH MONITORING NOISE LEVEL EXPERIENCE WITH LISTED ANIMAL SPECIES) AND APPROVED BY THE CITY MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR
- III. AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES, UNDER THE DIRECTION OF A QUALIFIED ACOUSTICIAN, NOISE ATTENUATION MEASURES (e.g., BERMS, WALLS) SHALL BE IMPLEMENTED TO ENSURE THAT NOISE LEVELS RESULTING FROM CONSTRUCTION ACTIVITIES WILL NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF HABITAT OCCUPIED BY THE COASTAL CALIFORNIA GNATCATCHER. CONCURRENT WITH THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND THE CONSTRUCTION OF NECESSARY NOISE ATTENUATION FACILITIES, NOISE MONITORING* SHALL BE CONDUCTED AT THE EDGE OF THE OCCUPIED HABITAT AREA TO ENSURE THAT NOISE LEVELS DO NOT EXCEED 60 dB(A) HOURLY AVERAGE. IF THE NOISE

ATTENUATION TECHNIQUES IMPLEMENTED ARE DETERMINED TO BE INADEQUATE BY THE QUALIFIED ACOUSTICIAN OR BIOLOGIST, THEN THE ASSOCIATED CONSTRUCTION ACTIVITIES SHALL CEASE UNTIL SUCH TIME THAT ADEQUATE NOISE ATTENUATION IS ACHIEVED OR UNTIL THE END OF THE BREEDING SEASON (AUGUST 16).

Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

- B. IF COASTAL CALIFORNIA GNATCATCHERS ARE NOT DETECTED DURING THE PROTOCOL SURVEY, THE QUALIFIED BIOLOGIST SHALL SUBMIT SUBSTANTIAL EVIDENCE TO THE CITY MANAGER AND APPLICABLE RESOURCE AGENCIES WHICH DEMONSTRATES WHETHER OR NOT MITIGATION MEASURES SUCH AS NOISE WALLS ARE NECESSARY BETWEEN MARCH 1 AND AUGUST 15 AS FOLLOWS:
 - I. IF THIS EVIDENCE INDICATES THE POTENTIAL IS HIGH FOR COASTAL CALIFORNIA GNATCATCHER TO BE PRESENT BASED ON HISTORICAL RECORDS OR SITE CONDITIONS, THEN CONDITION A.III SHALL BE ADHERED TO AS SPECIFIED ABOVE.
 - II. IF THIS EVIDENCE CONCLUDES THAT NO IMPACTS TO THIS SPECIES ARE ANTICIPATED, NO MITIGATION MEASURES WOULD BE NECESSARY.

LEAST BELL'S VIREO (State Endangered/Federally Endangered)

20. Prior to the issuance of any grading permit the City Manager (or appointed designee) shall verify that the following project requirements regarding the least Bell's vireo are shown on the construction plans:

NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MARCH 15 AND SEPTEMBER 15, THE

BREEDING SEASON OF THE LEAST BELL'S VIREO, UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:

A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(a)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE WETLAND AREAS THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE LEAST BELL'S VIREO. SURVEYS FOR THIS SPECIES SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. IF THE LEAST BELL'S VIREO IS PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:

- I. BETWEEN MARCH 15 AND SEPTEMBER 15, NO CLEARING, GRUBBING, OR GRADING OF OCCUPIED LEAST BELL'S VIREO HABITAT SHALL BE PERMITTED. AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; AND
- II. BETWEEN MARCH 15 AND SEPTEMBER 15, NO CONSTRUCTION ACTIVITIES SHALL OCCUR WITHIN ANY PORTION OF THE SITE WHERE CONSTRUCTION ACTIVITIES WOULD RESULT IN NOISE LEVELS EXCEEDING 60 dB(A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED LEAST BELL'S VIREO OR HABITAT. AN ANALYSIS SHOWING THAT NOISE GENERATED BY CONSTRUCTION ACTIVITIES WOULD NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED HABITAT MUST BE COMPLETED BY A QUALIFIED ACOUSTICIAN (POSSESSING CURRENT NOISE ENGINEER LICENSE OR REGISTRATION WITH MONITORING NOISE LEVEL EXPERIENCE WITH LISTED ANIMAL SPECIES) AND APPROVED BY THE CITY MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF ANY OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR

III. AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES, UNDER THE DIRECTION OF A QUALIFIED ACOUSTICIAN, NOISE ATTENUATION MEASURES (e.g., BERMS, WALLS) SHALL BE IMPLEMENTED TO ENSURE THAT NOISE LEVELS RESULTING FROM CONSTRUCTION ACTIVITIES WILL NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF HABITAT OCCUPIED BY THE LEAST BELL'S VIREO. CONCURRENT WITH THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND THE CONSTRUCTION OF NECESSARY NOISE ATTENUATION FACILITIES, NOISE MONITORING* SHALL BE CONDUCTED AT THE EDGE OF THE OCCUPIED HABITAT AREA TO ENSURE THAT NOISE LEVELS DO NOT EXCEED 60 dB(A) HOURLY AVERAGE. IF THE NOISE ATTENUATION TECHNIQUES IMPLEMENTED ARE DETERMINED TO BE INADEQUATE BY THE QUALIFIED ACOUSTICIAN OR BIOLOGIST, THEN THE ASSOCIATED CONSTRUCTION ACTIVITIES SHALL CEASE UNTIL SUCH TIME THAT ADEQUATE NOISE ATTENUATION IS ACHIEVED OR UNTIL THE END OF THE BREEDING SEASON (SEPTEMBER 16).

Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

B. IF LEAST BELL'S VIREO ARE NOT DETECTED DURING THE PROTOCOL SURVEY, THE QUALIFIED BIOLOGIST SHALL SUBMIT SUBSTANTIAL EVIDENCE TO THE CITY MANAGER AND APPLICABLE RESOURCE AGENCIES WHICH DEMONSTRATES WHETHER OR NOT MITIGATION MEASURES SUCH AS NOISE WALLS ARE NECESSARY BETWEEN MARCH 15 AND SEPTEMBER 15 AS FOLLOWS:

I. IF THIS EVIDENCE INDICATES THE POTENTIAL IS HIGH FOR LEAST BELL'S VIREO TO BE PRESENT BASED ON HISTORICAL RECORDS OR SITE CONDITIONS, THEN

CONDITION A.III SHALL BE ADHERED TO AS SPECIFIED ABOVE.

- II. IF THIS EVIDENCE CONCLUDES THAT NO IMPACTS TO THIS SPECIES ARE ANTICIPATED, NO MITIGATION MEASURES WOULD BE NECESSARY.

SOUTHWESTERN WILLOW FLYCATCHER (Federally Endangered)

21. Prior to the issuance of any grading permit the City Manager (or appointed designee) shall verify that the following project requirements regarding the southwestern willow flycatcher are shown on the construction plans:

NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MAY 1 AND SEPTEMBER 1, THE BREEDING SEASON OF THE SOUTHWESTERN WILLOW FLYCATCHER, UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:

- A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(a)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE WETLAND AREAS THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE SOUTHWESTERN WILLOW FLYCATCHER. SURVEYS FOR THIS SPECIES SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION. IF THE SOUTHWESTERN WILLOW FLYCATCHER IS PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:
 - I. BETWEEN MAY 1 AND SEPTEMBER 1, NO CLEARING, GRUBBING, OR GRADING OF OCCUPIED SOUTHWESTERN WILLOW FLYCATCHER HABITAT SHALL BE PERMITTED. AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; AND
 - II. BETWEEN MAY 1 AND SEPTEMBER 1, NO CONSTRUCTION ACTIVITIES SHALL OCCUR WITHIN ANY PORTION OF THE SITE WHERE CONSTRUCTION ACTIVITIES WOULD RESULT IN NOISE LEVELS EXCEEDING 60 dB(A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED SOUTHWESTERN WILLOW FLYCATCHER HABITAT. AN ANALYSIS SHOWING THAT NOISE GENERATED BY CONSTRUCTION ACTIVITIES WOULD

NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED HABITAT MUST BE COMPLETED BY A QUALIFIED ACOUSTICIAN (POSSESSING CURRENT NOISE ENGINEER LICENSE OR REGISTRATION WITH MONITORING NOISE LEVEL EXPERIENCE WITH LISTED ANIMAL SPECIES) AND APPROVED BY THE CITY MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR

- III. AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES, UNDER THE DIRECTION OF A QUALIFIED ACOUSTICIAN, NOISE ATTENUATION MEASURES (e.g., BERMS, WALLS) SHALL BE IMPLEMENTED TO ENSURE THAT NOISE LEVELS RESULTING FROM CONSTRUCTION ACTIVITIES WILL NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF HABITAT OCCUPIED BY THE SOUTHWESTERN WILLOW FLYCATCHER. CONCURRENT WITH THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND THE CONSTRUCTION OF NECESSARY NOISE ATTENUATION FACILITIES, NOISE MONITORING* SHALL BE CONDUCTED AT THE EDGE OF THE OCCUPIED HABITAT AREA TO ENSURE THAT NOISE LEVELS DO NOT EXCEED 60 dB(A) HOURLY AVERAGE. IF THE NOISE ATTENUATION TECHNIQUES IMPLEMENTED ARE DETERMINED TO BE INADEQUATE BY THE QUALIFIED ACOUSTICIAN OR BIOLOGIST, THEN THE ASSOCIATED CONSTRUCTION ACTIVITIES SHALL CEASE UNTIL SUCH TIME THAT ADEQUATE NOISE ATTENUATION IS ACHIEVED OR UNTIL THE END OF THE BREEDING SEASON (SEPTEMBER 1).

Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on

the placement of construction equipment and the simultaneous use of equipment.

- B. IF SOUTHWESTERN WILLOW FLYCATCHER ARE NOT DETECTED DURING THE PROTOCOL SURVEY, THE QUALIFIED BIOLOGIST SHALL SUBMIT SUBSTANTIAL EVIDENCE TO THE CITY MANAGER AND APPLICABLE RESOURCE AGENCIES WHICH DEMONSTRATES WHETHER OR NOT MITIGATION MEASURES SUCH AS NOISE WALLS ARE NECESSARY BETWEEN MAY 1 AND SEPTEMBER 1 AS FOLLOWS:
 - I. IF THIS EVIDENCE INDICATES THE POTENTIAL IS HIGH FOR SOUTHWESTERN WILLOW FLYCATCHER TO BE PRESENT BASED ON HISTORICAL RECORDS OR SITE CONDITIONS, THEN CONDITION A.III SHALL BE ADHERED TO AS SPECIFIED ABOVE.
 - II. IF THIS EVIDENCE CONCLUDES THAT NO IMPACTS TO THIS SPECIES ARE ANTICIPATED, NO MITIGATION MEASURES WOULD BE NECESSARY.

HISTORICAL RESOURCES (ARCHAEOLOGY)

22. Prior to Preconstruction (Precon) Meeting:

A. Land Development Review (LDR) Plan Check:

- I. 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 Assistant Deputy Director (ADD) of LDR shall verify that the requirements for archaeological monitoring and Native American monitoring, if applicable, have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to ADD:

- I. 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 ADD of LDR stating that a qualified Archaeologist, as defined in the City of San Diego Historical Resources Guidelines (HRG), has been retained to implement the monitoring program. If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.

- C. Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination (MMC):
 - I. 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.
 - II. MMC will provide Plan Check with a copy of both the first and second letter.
 - D. Records Search Prior to Precon Meeting:
 - I. 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
23. Precon Meeting:
- A. Monitor Shall Attend Precon Meetings:
 - I. 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.
 - II. 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.
 - B. Identify Areas to be Monitored:
 - I. 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.

- C. When Monitoring Will Occur:
 - I. 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.

- 24. During Construction:
 - A. Monitor Shall be Present During Grading/Excavation:
 - I. 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.

 - B. Discoveries:
 - I. 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.

 - II. 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.

 - C. Human Remains:
 - I. 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:

a. 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.

b. 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.

c. If Human Remains are determined to be Native American

- (1) The Medical Examiner shall notify the Native American Heritage 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:
 - (i.) 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;
 - (ii.) The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94(k) by the 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.

d. 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.

D. Night Work:

I. If night work is included in the contract:

- a. When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.

- b. The following procedures shall be followed:
 - (1) 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.
 - (2) 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 8 AM the following morning to report and discuss the findings.

II. If night work becomes necessary during the course of construction:

- a. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
- b. The RE, or BI, as appropriate, will notify MMC immediately.

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

E. Notification of Completion:

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

25. Post Construction:

A. Handling and Curation of Artifacts and Letter of Acceptance:

- I. The Archaeologist shall be responsible for ensuring that all cultural remains collected are cleaned, catalogued, and permanently curated with an appropriate institution; prior to release of the grading bond, the PI shall submit a letter of acceptance from the curation institution 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.
- II. 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.

- B. Final Results Reports (Monitoring and Research Design and Data Recovery Program):
 - I. 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 ADD of LDR.
 - II. For significant archaeological resources encountered during monitoring, the Research Design and Data Recovery Program (ADRP) shall be included as part of the Final Results Report.
 - III. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.
- C. Recording Sites with State of California Department of Park and Recreation:
 - I. 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.

ENGINEERING REQUIREMENTS:

- 26. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
- 27. Prior to the issuance of any construction permits, the applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
- 28. Prior to the issuance of any construction permits, the applicant shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
- 29. Prior to the issuance of any construction permits, the applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.

30. Prior to the issuance of any construction permits for the South Shore Trail, the Permittee shall obtain the necessary approvals from the City of San Diego and to the satisfaction of the City Engineer, to extend the trail to the signalized intersection of West Bernardo Dr. and Rancho Bernardo Community Park entry way.

REAL ESTATE ASSETS DEPARTMENT REQUIREMENTS:

31. Prior to issuance of any construction permits, the Permittee shall obtain property rights (lease, license or easement) from the City of San Diego for City-owned land and the airspace over Lake Hodges Reservoir, required for this project. Additionally, the City of San Diego's water supply permit with the State Department of Health Services must be amended to allow for this recreational use.

TRANSPORTATION REQUIREMENTS:

32. Prior to allowing any public access to the completed bridge, the Permittee shall provide bike lanes along West Bernardo Drive and ensure the completed installation by Caltrans District 11 and operation of a signalized intersection with crosswalk at West Bernardo Drive and southbound Interstate 15 on ramp.

PLANNING/DESIGN REQUIREMENTS:

33. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

34. The Permittee shall the development and implement of a program to monitor the use of the bridge by various user groups. If a conflict between users is identified, measures shall be implemented in a timely manner and in consultation with the City Manager to ensure the quick resolution of such conflicts.

35. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

36. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

37. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

38. All signs, including public information features, associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A"); or
- b. Citywide sign regulations and/or those approved by the State such as watershed boundary signs as applicable.

INFORMATION ONLY:

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Council of the City of San Diego on September 20, 2005 by Resolution No. R-300861.

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

SAN DIEGUITO RIVER PARK
JOINT POWERS AUTHORITY,
Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

PERMIT/OTHER – Permit Shell 11-01-04