

RESOLUTION NUMBER R-301672

DATE OF FINAL PASSAGE: JULY 24, 2006

RESOLUTION OF THE CITY OF SAN DIEGO CERTIFYING
MITIGATED NEGATIVE DECLARATION PROJECT NO.
33120, SCH NO. 200611056, AND ADOPTING THE
MITIGATION, MONITORING, AND REPORTING PROGRAM
REGARDING THE MIRAMAR TRUNK SEWER PROJECT.

WHEREAS, the City of San Diego Metropolitan Wastewater Department submitted an application for upgrades and replacement of sewer pipeline known as the Miramar Trunk Sewer Project, which application was heard by the City Planning Commission, and approved on April 6, 2006 with a condition limiting installation to the pipe-bursting method; and

WHEREAS, the Metropolitan Wastewater Department appealed the condition to the City Council, which set the matter for public hearing to be conducted by the City Council; and

WHEREAS, the public hearing was held July 24, 2006 and the City Council upheld the appeal and overruled the Planning Commission's condition; and

WHEREAS, at the public hearing on July 24, 2006, the City Council also considered the issues discussed in Mitigated Negative Declaration Project No. 33120, SCH No. 200611056, in connection with the project; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration Project No. 33120, 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 Mitigated Negative 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 the Council in connection with approval of the Miramar Trunk Sewer Project.

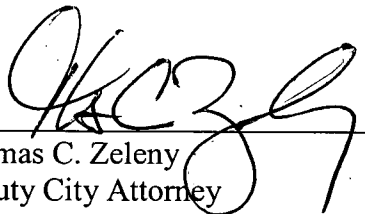
BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and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

By



Thomas C. Zeleny
Deputy City Attorney

TCZ:mb
08/24/06
Or.Dept:MWWD
R-2007-127

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

MIRAMAR TRUNK SEWER

COUNCIL APPROVAL

PROJECT NUMBER: 33120

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 Project No. 31233 shall be made conditions of COUNCIL APPROVAL as may be further described below.

MITIGATION, MONITORING AND REPORTING PROGRAM:

GENERAL

1. The following mitigation measures shall be noted on the submitted construction/grading plans and specification, and included under the heading, "Environmental Mitigation Requirements."
2. Prior to the commencement of work, a Preconstruction Meeting (Pre-con) shall be conducted and include City of San Diego's Mitigation Monitoring and Coordination (MMC) staff, Park and Recreation Department, Resident Engineer, Project Biologist, Project Archaeologist, Project Paleontologist, Applicant, and other parties of interest.

BIOLOGICAL RESOURCES

- I. 1. LDR Plan Check
 - a. Prior to the first Precon Meeting, the Assistant Deputy Director (ADD) Environmental Designee shall verify that the requirements for Biological Monitoring have been noted on the appropriate construction documents.
 - b. Letters of Qualification Have Been Submitted to MMC
Prior to the first Precon Meeting, the applicant shall provide a letter of verification to MMC stating that a qualified Biologist and/or Wetland Biologist, as defined in the City's Biological Resources Guidelines, has been retained to implement the following monitoring program, which includes the name of the Biologist and the name of all persons involved in the biological monitoring of the project.
 - c. MMC shall notify Plan check that the biologist has been retained.
 - d. Prior to the Precon Meeting the qualified Biologist shall identify pertinent information concerning protection of sensitive resources, such as but not limited to, flagging of individual plants or small plant groups, limits of grade fencing and limits of silt fencing (locations may include 10-foot or less inside the limits of grading, or up against and just inside of the limits of the grade

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fencing).

- e. The applicant shall submit the following items to the City prior to issuance of a NTP or any permits which affects on-site wetlands and uplands. Evidence shall include either copies of permits issued, letters of resolutions issued by the responsible agency documenting compliance, or other evidence documenting compliance and deemed acceptable by the City Manager: Evidence of compliance with Sections 401 and 404 of the Federal Clean Water Act, and Section 1601/1603 of the State of California Fish & Game Code.
- II. 1. Prior to permit issuance or bid opening/bid award the Applicant shall provide detailed revegetation/ restoration plans and specifications, satisfactory to the City Manager to mitigate for impacts to on-site Riparian scrub (Wetland) and Waters of the U.S./natural bottom channel. Specifications must be found to be in conformance with the conceptual revegetation plan in the *Conceptual Mitigation Plan For the Canyon Sewer Projects Within the Rose Canyon Open Space Park* prepared by Merkel and Associates (March 2005)
 - a. Mitigation Goal The project shall mitigate for impacts to 1.085 acres of wetland habitat at a 2:1 ratio with the additional mitigation factor resulting from impacts to existing mitigation sites. A total of 2.563 acres of mitigation shall be required and shall be accomplished through the creation of 1.085 acres of wetland habitat and the enhancement of 1.478 acres of wetland enhancement all of which would take place in Rose Canyon Open Space Park and is detailed in *Conceptual Mitigation Plan For the Canyon Sewer Projects Within the Rose Canyon Open Space Park*.
 - b. Responsibilities The Contractor shall be responsible for all grading and contouring, clearing and grubbing, installation of plant materials and native seed mixes, and any necessary maintenance activities or remedial actions required during installation and the 120-day plant establishment period as detailed in the revegetation plans. Standard Best Management Practices shall be implemented to insure that sensitive biological resources would not be impacted by water run off.
 - c. Biological Monitoring Requirements All biological monitoring shall be conducted by a qualified wetland biologist. The biologist shall conduct construction monitoring during all phases of the project. Orange flagging shall be used to protect sensitive habitat. Construction related activity shall be limited to the construction corridor areas as identified on the construction plans. Both a detailed Performance Criteria plan and all the maintenance requirements are found in the conceptual revegetation plans.

- d. Notification of Completion: At the end of the fifth year, a final report shall be submitted to Mitigation Monitoring Coordination and Park and Recreation sections evaluating the success of the mitigation. The report shall make a determination of whether the requirements of the mitigation plan have been achieved. If the final report indicates that the mitigation has been in part, or whole, unsuccessful, the Applicant shall be required to submit a revised or supplemental mitigation program to compensate for those portions of the original mitigation program which were not successful. At such time, the Applicant must consult with the Development Services Department. The Applicant understands that agreed upon remedial measures may result in extensions to the long-term maintenance and monitoring.

2. Prior to permit issuance or bid opening/bid award the Applicant shall provide detailed revegetation/ restoration plans and specifications, satisfactory to the City Manager to mitigate for impacts to on-site upland habitat. Specifications must be found to be in conformance with the conceptual revegetation plan in the *Conceptual Mitigation Plan For the Canyon Sewer Projects Within the Rose Canyon Open Space Park* prepared by Merkel and Associates (March 2005).

- a. Mitigation Goal The project shall mitigate for impacts to 2.233 acres of upland habitat as indicated in Table 1 below. All of the upland mitigation would take place in Rose Canyon Open Space Park and is detailed in *Conceptual Mitigation Plan For the Canyon Sewer Projects Within the Rose Canyon Open Space Park*.

Table 1 (Upland Mitigation Ratios)

Habitat Type	Location	Impact (acres) (Permanent)	Mitigation (Inside MHPA)	
			Ratio	Required Mitigation (acres)
Baccharis Scrub (Tier II)	Inside MHPA	0.322	1:1/2:1 (for the 0.05 acre of impacts to currently existing mitigation site)	0.372
	Outside MHPA	0.587	1:1	0.587
Coastal Sage Scrub (Tier II) (including disturbed coastal sage scrub)	Inside MHPA	0.527	1:1	0.527
	Outside MHPA	0.210	1:1	0.210

Habitat Type	Location	Impact (acres) (Permanent)	Mitigation (Inside MHPA)	
			Ratio	Required Mitigation (acres)
Scrub Oak Chaparral (Tier I)	Inside MHPA	0.013	2:1	0.026
	Outside MHPA	0.001	1:1	0.001
Southern Mixed Chaparral (Tier IIIa)	Inside MHPA	0.024	1:1	0.024
	Outside MHPA	0.067	0.5:1	0.034
Coast Live Oak Woodland (Tier I)	Inside MHPA	0.067	2:1	0.134
	Outside MHPA	0.020	1:1	0.020
Poison Oak Scrub (Tier I)	Inside MHPA	0.108	1:1	0.108
	Outside MHPA	0.017	0.5:1	0.009
Annual (non-native) grassland (Tier IIIB)	Inside MHPA	0.026	1:1	0.026
	Outside MHPA	0.310	0.5:1	0.155
Total		2.290		2.233

Notes:

1. For all Tier I impacts, the mitigation could (1) occur within the MHPA portion of Tier I (in Tier) or (2) occur outside of the MHPA within the affected habitat type (in-kind).
2. For impacts to Tier II, III A and III B habitats, the mitigation could (1) occur within the MHPA portion of Tiers I-III (out of kind) or (2) occur outside of the MHPA within the affected habitat type (in-kind)

- b. Responsibilities The Contractor shall be responsible for all grading and contouring, clearing and grubbing, installation of plant materials and native seed mixes, and any necessary maintenance activities or remedial actions required during installation and the 120-day plant establishment period as detailed in the revegetation plans. Standard Best Management Practices shall be implemented to insure that sensitive biological resources would not be impacted by water run off.
- c. Biological Monitoring Requirements All biological monitoring shall be

conducted by a qualified biologist. The biologist shall conduct construction monitoring during all phases of the project. Orange flagging shall be used to protect sensitive habitat. Construction related activity shall be limited to the construction corridor areas as identified on the construction plans. Both a detailed Performance Criteria plan and all the maintenance requirements are found in the conceptual revegetation plans.

d. Notification of Completion: At the end of the fifth year, a final report shall be submitted to Mitigation Monitoring Coordination and Park and Recreation sections evaluating the success of the mitigation. The report shall make a determination of whether the requirements of the mitigation plan have been achieved. If the final report indicates that the mitigation has been in part, or whole, unsuccessful, the Applicant shall be required to submit a revised or supplemental mitigation program to compensate for those portions of the original mitigation program which were not successful. At such time, the Applicant must consult with the Development Services Department. The Applicant understands that agreed upon remedial measures may result in extensions to the long-term maintenance and monitoring.

3. San Diego fairy shrimp have been detected in two road ruts that lie on the access roads leading to the project area. In order to avoid construction-related impacts to the fairy shrimp during the dry season, steel plates shall be placed over the road ruts during construction activities. If construction occurs during the wet season and the depressions begin to pond, the area shall be fenced with orange construction fencing and avoided.
4. Eight small oak trees are present in the construction corridor. The trees shall be transplanted prior to construction. Transplantation shall be supervised by the biological monitor and certified arborist and shall include irrigation and monitoring for five years.

III. 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 Biologist, Biological Monitors, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, Park and Recreation and MMC. The qualified Biologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the monitoring program with the Construction Manager and/or Grading Contractor.
 - b. If the Biologist is not able to attend the Precon Meeting, the RE or BI, if appropriate, will schedule a focused Precon Meeting for MMC, Environmental Analysis Section (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 Biologist shall submit to MMC a copy of the site/grading plan (reduced to 11"x17") that identifies areas to be protected, fenced and monitored as well as areas that may require delineation of grading limits.
3. When Monitoring Will Occur
 - a. Prior to the start of work, the Biologist 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.

IV. During Construction

1. Biological Monitor Shall Be Present During Grading/Excavation
 - a. The Biological Monitor shall be on site to ensure that grading limits are observed 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. The biological monitor shall have the authority to divert work or temporarily stop operations to avoid significant impacts. It is the Construction Manager's responsibility to keep the monitors up-to-date with current plans.
 - b. No staging/storage areas for equipment and materials shall be located within or adjacent to habitat retained in open space area; no equipment maintenance shall be conducted within or near adjacent open space.
 - c. Natural drainage patterns shall be maintained as much as possible during construction. Erosion control techniques, including the use of sandbags, hay bales, and/or the installation of sediment traps, shall be used to control erosion and deter drainage during construction activities into the adjacent open space.
 - d. No trash, oil, parking or other construction related activities shall be allowed outside the established limits of grading. All construction related debris shall be removed off site to an approved disposal facility.
2. For any unforeseen additional biological resources impacted during monitoring, the rehabilitation, revegetation or other such follow up action plans shall be included as part of the Final Biological Monitoring Report. Additional mitigation measures may also be required if additional impacts to the adjacent wetland habitat occur as a result of project construction.

V. Post Construction

1. Submittal of Draft Monitoring Reports to MMC
 - a. The Applicant or Project Biologist, as appropriate, shall submit two copies of the Draft Monitoring Report which describes the results,

- analysis, and conclusions of all phases of the Biological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,
- b. MMC shall return the Draft Monitoring Report to the Applicant or Project Biologist for revision, for preparation of the Final Report.
 - c. The Applicant or Project Biologist shall submit revised Draft Monitoring Report to MMC for approval.
 - d. MMC shall provide written verification to the Applicant or Project Biologist of the approved report.
 - e. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
2. Submittal of Final Monitoring Reports to MMC
- a. The Applicant or Project Biologist shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC, within 90 days after notification from MMC that the draft report has been approved.
 - b. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC.

HISTORICAL RESOURCES (ARCHAEOLOGY)

- I. Prior to Permit Issuance or Bid Opening/Bid Award
 - A. Land Development Review (LDR) Plan Check
 1. Prior to permit issuance or Bid Opening, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee 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
 1. Prior to Bid Award the applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
 2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.
 3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.
- II. Prior to Start of Construction
 - A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. 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.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the 1/4 mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Acknowledgement of Responsibility for Curation (CIP or Other Public Projects)

The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the archaeological monitoring program.
3. Identify Areas to be Monitored
 - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC for approval identifying the areas to be monitored including the delineation of grading/excavation limits.
 - a. The AME shall be based on the results of a site specific records search as well as information regarding the age of existing pipelines, laterals and associated appurtenances and/or any known soil conditions (native or formation).
 - b. MMC shall notify the PI that the AME has been approved.
4. When Monitoring Will Occur
 - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
 - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

5. Approval of AME and Construction Schedule

After approval of the AME by MMC, the PI shall submit to MMC written authorization of the AME and Construction Schedule from the CM.

III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities including, but not limited to mainline, laterals, jacking and receiving pits, services and all other appurtenances associated with underground utilities as identified on the AME and as authorized by the CM. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to the CM and/or RE for concurrence and forwarding to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous trenching activities, presence of fossil formations, or when native soils are encountered may reduce or increase the potential for resources to be present.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI and Native American representative, if applicable, shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
 - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval of the program from MMC, CM and RE. ADRP and any mitigation must be approved by MMC, RE and/or CM before ground disturbing activities in the area of discovery will

be allowed to resume.

(1). Note: For pipeline trenching projects only, the PI shall implement the Discovery Process for Pipeline Trenching projects identified below under "D."

c. If resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

(1). Note: For Pipeline Trenching Projects Only. If the deposit is limited in size, both in length and depth; the information value is limited and is not associated with any other resource; and there are no unique features/artifacts associated with the deposit, the discovery should be considered not significant.

(2). Note, for Pipeline Trenching Projects Only: If significance can not be determined, the Final Monitoring Report and Site Record (DPR Form 523A/B) shall identify the discovery as Potentially Significant.

D. Discovery Process for Significant Resources - Pipeline Trenching Projects

The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance:

1. Procedures for documentation, curation and reporting

- a. One hundred percent of the artifacts within the trench alignment and width shall be documented in-situ, to include photographic records, plan view of the trench and profiles of side walls, recovered, photographed after cleaning and analyzed and curated. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact.
- b. The PI shall prepare a Draft Monitoring Report and submit to MMC via the RE as indicated in Section VI-A.
- c. The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) the resource(s) encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines. The DPR forms shall be submitted to the South Coastal Information Center for either a Primary Record or SDI Number and included in the Final Monitoring Report.
- d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

IV. Discovery of Human Remains

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) shall be undertaken:

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 shall be directed away 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 shall contact the PI within 24 hours or sooner, after Medical Examiner has completed coordination.
 3. NAHC shall identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information..
 4. The PI shall coordinate with the MLD for additional consultation.
 5. Disposition of Native American Human Remains shall 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 NAHC fails to provide measures acceptable to the landowner.
- 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 internment of the human remains shall be made in consultation with MMC, EAS, the applicant department and/or Real Estate Assets Department (READ) and the Museum of Man.

V. 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 no discoveries were encountered during night work, The PI shall record the information on the CSVR and submit to MMC via the RE by fax by 9am the following morning, if possible.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV – Discovery of Human Remains.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
 - d. The PI shall immediately contact the RE and MMC, or by 8AM the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- 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, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

- A. Submittal of Draft Monitoring Report
 1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC via the RE for review and approval within 90 days following the completion of monitoring.
 - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
 - b. Recording Sites with State of California Department of Parks and Recreation
The PI 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 Monitoring Report.
 2. MMC shall return the Draft Monitoring Report to the PI via the RE for revision or, for preparation of the Final Report.
 3. The PI shall submit revised Draft Monitoring Report to MMC via the RE for

approval.

4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued. Before the curation of any recovered artifacts a representative sample of the collection shall be made available to the Park Ranger staff for educational purposes at the Tecolote Nature Center.
2. The PI shall be responsible for ensuring 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.

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall submit the Accession Agreement and catalogue record(s) to the RE or BI, as appropriate for donor signature with a copy submitted to MMC.
3. The RE or BI, as appropriate shall obtain signature on the Accession Agreement and shall return to PI with copy submitted to MMC.
4. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC of the approved report.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

LAND USE (MULTIPLE SPECIES CONSERVATION PROGRAM)

Portions of the Miramar Trunk Sewer project is located within and adjacent to the Multi-Habitat Planning Area (MHPA). Therefore, the following MHPA Land Use Adjacency Guidelines shall be made conditions of project approval.

1. Prior to initiation of any ground disturbing activities, the construction foreman shall discuss the sensitive nature of the adjacent habitat with the crew and subcontractor.
2. Prior to the start of construction, the construction limits shall be clearly delineated by a survey crew prior to brushing, clearing or grading. The limits of grading shall

be defined with silt fencing and checked by the biological monitor before initiation of trenching activities and/or ground disturbing activities.

3. Prior to the issuance of any construction permit, the City Manager shall review the landscape plans to ensure that no invasive non-native plant species have been proposed for areas adjacent to the MHPA.
4. All lighting adjacent to the MHPA shall be shielded, unidirectional, low pressure sodium illumination (or similar) and directed away from preserve areas using appropriate placement and shields.
5. No staging/storage areas for equipment and materials shall be located within or adjacent to habitat retained in open space area; No equipment maintenance shall be conducted within or near the adjacent open space.
6. Natural drainage patterns shall be maintained as much as possible during construction. Erosion control techniques, including the use of sandbags, hay bales, and/or the installation of sediment traps, shall be used to control erosion and deter drainage during construction activities into the adjacent open space. Drainage from all development areas adjacent to the MHPA shall be directed away from the MHPA, or if not possible, must not drain directly into the MHPA, but instead into sedimentation basins, grassy swales, and/or mechanical trapping devices as specified by the City Engineer.
7. No trash, oil, parking or other construction related activities shall be allowed outside the established limits of grading. All construction related debris shall be removed off-site to an approved disposal facility.
8. Prior to the preconstruction meeting, 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)

Prior to the preconstruction meeting, 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.

Passed by the Council of The City of San Diego on JUL 24 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 24 2006

AUTHENTICATED BY:

(Seal)

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Maureen E. Ketchum, Deputy

Office of the City Clerk, San Diego, California

Resolution Number

R-301672