

RESOLUTION NUMBER R- 301918

DATE OF FINAL PASSAGE SEP 19 2006

WHEREAS, on January 23, 2003, Creekside Villas LLC, submitted an application to the City of San Diego for a tentative map/coastal development permit/planned development permit/site development permit/rezone/land use plan amendment and Local Coastal Program amendment for the Creekside Villas project; and

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

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the issue was heard by the Council on SEP 19 2006; and

WHEREAS, the Council of the City of San Diego considered the issues discussed in Mitigated Negative Declaration No. 5769; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is hereby certified that Mitigated Negative Declaration No. 5769 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 Administration Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead

Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the Council.

BE IT FURTHER RESOLVED that the Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration, a copy of which is on file as Document No. RR-301918, and incorporated by reference, is hereby approved.

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

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

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Shannon Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:als
07/12/06
10/05/06 COR.COPY
Or.Dept:DSD
R-2007-29
MMS#3481

ENVIRONMENTAL - MND 11-01-04

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

Tentative Map, Coastal Development Permit, Planned Development Permit, Site Development Permit, Rezone, Land Use Plan Amendment, Local Coastal Program Amendment
MND NO. 5769

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. 5769) shall be made conditions of the Tentative Map, Coastal Development Permit, Planned Development Permit, Site Development Permit, Rezone, Land Use Plan Amendment, Local Coastal Program Amendment and Demolition Permit as may be further described below.

General measures which must be completed prior to any authorization to proceed:

1. The Assistant Deputy Director (ADD) of the City's Land Development Review Division (LDR) shall verify that the following statement is shown on the grading and/or construction plans as a note under the heading Environmental Requirements: "The Creekside Villas Project is subject to a Mitigation, Monitoring and Reporting Program (MMRP) and shall conform to the mitigation conditions as contained in the MND (Project No. 5769)."
2. The owner/permittee shall make arrangements to schedule a pre-construction meeting to ensure implementation of the MMRP. The meeting shall include the Resident Engineer, the Project Biologist, Paleontologist, Archaeologist, and the City's Mitigation Monitoring Coordination (MMC) Section.

Paleontological Resources:

I. Prior to Permit Issuance

A. Land Development Review (LDR) Plan Check

1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents

B. Letters of Qualification have been submitted to ADD

1. 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 paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.

2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall 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 has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution 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.

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 paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological 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. Identify Areas to be Monitored
 - a. Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. 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 depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

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 as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **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 (CSV). The CSV'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 MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

B. Discovery Notification Process

1. In the event of a discovery, the Paleontological 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 shall evaluate the significance of the resource.
 - 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. The determination of significance for fossil discoveries shall be at the discretion of the PI.
- b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
 - c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
 - d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

IV. 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 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.
 - 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 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 Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the

- completion of monitoring,
- a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with the San Diego Natural History Museum
The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
 3. The PI shall submit revised Draft Monitoring Report to MMC 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 Fossil Remains
1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
 2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
- C. Curation of fossil remains: Deed of Gift and Acceptance Verification
1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
 2. 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 two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
 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.

Biological Resources: *General*

1. Prior to the issuance of any grading permits and/or the first pre-construction meeting, the owner/permittee shall submit evidence to the ADD of LDR verifying that a qualified biologist has been retained to implement the biological resources mitigation program as detailed below:
 - A. Prior to the first pre-construction meeting, the applicant shall provide a letter of

- verification to the ADD of the LDR stating that a qualified Biologist, as defined in the City of San Diego Biological Resources Guidelines has been retained.
- B. At least thirty days prior to the pre-construction meeting, a second letter shall be submitted to the MMC section which includes the name and contact information of the Biologist and the names of all persons involved in the Biological Monitoring of the project.
 - C. At least thirty days prior to the pre-construction meeting, the qualified Biologist shall verify that any special report, maps, plans and timelines, avian or other wildlife protocol surveys, impact avoidance areas or other such information have been completed and updated.
 - D. The qualified biologist shall supervise the placement of construction fencing (orange construction fencing, silt fencing, or other appropriate barriers) along the limits of disturbance as shown on the approved Exhibit A prior to any clearing or grading activities to protect the off-site sensitive vegetation/species, including Coast Barrel Cactus.
 - E. All construction activities (including staging areas) shall be restricted to the development area as shown on the approved Exhibit A. The qualified biologist shall inspect all construction fencing prior to construction and shall monitor the fencing, and the ongoing construction activities to avoid impacts, including noise impacts, on adjacent sensitive vegetation and species.

Coastal California Gnatcatcher (Federally Threatened) Mitigation:

Prior to the issuance of any authorization to proceed, 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 grading and building permit 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.

1. A qualified biologist (possessing a valid Endangered Species Act Section 10(a)(1)(A) Recovery Permit) shall survey habitat areas within the MHPA that would be subject to the construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of the coastal California gnatcatcher. 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 coastal California gnatcatchers are present, then the following conditions must be met:**
 - a. Between March 1 and August 15 for occupied gnatcatcher habitat no clearing, grubbing, or grading of occupied habitat shall be permitted.

Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; **AND**

- b. Between March 1 and August 15 for occupied gnatcatcher habitat 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 the occupied 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 a 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; **OR**
- c. 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 aforementioned avian species. 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 appropriate breeding season.

** 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.*

2. If the aforementioned avian species are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrate whether or not mitigation measures such as noise walls are necessary during the applicable breeding seasons of March 1 and August 15 as follows:
 - a. If this evidence indicates the potential is high for the aforementioned avian species to be present based on historical records or site conditions, then Condition 1-b or 1-c shall be adhered to as specified above.
 - b. If this evidence concludes that no impacts to the species are anticipated, no new mitigation measures are necessary.

3. If the permittee begins construction prior to the completion of the protocol avian surveys, then the Development Services Department shall assume that the appropriate avian species are present and all necessary protection and mitigation measures shall be required as described in 1 c.

Raptor Mitigation:

1. **Prior to the Issuance of Grading Permits**
Prior to issuance of grading permits a qualified biologist shall determine the presence or absence of occupied raptor nests within the project site, with written results submitted to the Assistant Deputy Director (ADD) of Land Development Review Division (LDR).
2. **Prior to Start of Construction**
If active raptor nests are identified during the pre-grading survey and project construction has the potential to impact raptors during the raptor breeding season (February 1 – September 15) the biologist in consultation with EAS staff shall determine an appropriate noise buffer area. The buffer area must be identified and flagged.

This restriction shall be noted on all grading and construction plans. If raptors nests are located within the distances listed above, weekly biological monitoring of these nests shall be conducted by the project biologist during the breeding season (**February 1 through September 15**) with written results submitted to the ADD of LDR. If no raptor nests are discovered in the trees to be removed, no further mitigation is required.

3. **During Construction**
 - A. If raptor nests are discovered during construction activities, the biologist shall notify the Resident Engineer (RE).
 - B. The RE shall stop work in the vicinity of the nests. The qualified biologist shall mark all pertinent trees and delineate the appropriate "no construction" buffer area or as noted in Biological Resources - Raptors measure *I.B.* (above), around any nest sites, satisfactory to the ADD of LDR. The buffer shall be maintained until the qualified biologist determines, and demonstrates in a survey report satisfactory to the ADD of LDR that any young birds have fledged.
4. **Post Construction**
 - A. The biologist shall be responsible for ensuring that all field notes and reports have been completed, all outstanding items of concern have been resolved or noted for follow up, and that focused surveys are completed, as appropriate.

- B. Within three months following the completion of monitoring, two copies of the Final Biological Monitoring Report (even if negative) and/or evaluation report, if applicable, which describes the results, analysis, and conclusions of the Biological Monitoring Program (with appropriate graphics) shall be submitted to Mitigation Monitoring Coordination (MMC) for approval by the ADD of LDR.
- C. For any unforeseen additional biological resources impacted during monitoring, the rehabilitation, revegetation, or other such follow up action plan(s) shall be included as part of the Final Biological Monitoring Report in accordance with the City of San Diego's Land Development Code, Biological Resources Guidelines (July 2002). Additional mitigation measures may also be required.
- D. This report shall address findings of active/inactive nests and any recommendations for retention of active nest, removal of inactive nests and mitigation for offsetting loss of breeding habitat.
- E. MMC shall notify the RE of receipt of the Final Biological Monitoring Report.

MHPA Conveyance:

Prior to the issuance of any grading permits, the on-site MHPA shall be conveyed to the City's MSCP preserve through either fee title to the City, or a conservation easement or covenant of easement granted in favor of the City and wildlife agencies. Conveyance of any MHPA land in fee to the City shall require approval from the Park and Recreation Department Open Space Division Deputy Director and shall exclude detention basins or other storm water control facilities, brush management area, landscape/revegetation areas, and graded slopes; these features shall have conservation easements recorded over them if accepted into the MHPA, with maintenance and management responsibilities retained by the Owner/Permittee, unless otherwise agreed to by the City. A copy of the proposed/final method of MHPA conveyance shall be submitted to DSD and MSCP.

On-site Native Revegetation:

Prior to the issuance of building occupancy permits, the City Manager shall verify that the revegetated area has been appropriately planted with the native palette per the approved Exhibit A. All costs associated with plan preparation and long-term management of the on-site revegetated slope areas shall be the responsibility of the Owner/Permittee or its designated representative.

MHPA Adjacency Requirements:

Prior to the issuance of any authorization to proceed the ADD of the LDR shall ensure that the following measures are included as notes on the grading plans:

1. A qualified project biologist shall inspect all construction fencing prior to construction and shall monitor construction activities to avoid unauthorized impacts
2. All staging areas shall be located within the developed areas as shown in the biology report and the approved plans. All equipment and/or materials related to construction shall be fenced and stored in these designated areas.
3. All construction and staging area limits shall be clearly delineated prior to construction activity with orange construction fencing or silt fencing to ensure that construction activity remains within the defined construction limits.
4. The biologist shall provide direction to construction personnel regard the need to avoid impacts to adjacent sensitive areas.
5. Any hydroseed mix used for erosion control shall only contain native species and shall only be applied under the supervision of the biologist or a landscape architect.
6. All security lighting of the staging areas shall be shielded and directed away from the MHPA and CVREP.
7. No nighttime construction shall be allowed to preclude impacts to the MHPA.
8. No toxic materials or water used during construction related work shall be allowed to be diverted or drained off-site, into the MHPA and/or CVREP, during and after construction activity. The biologist shall ensure that the appropriate measures and control devices are used as needed during construction to deter any drainage toward sensitive habitat. Post construction drainage shall not be allowed to run directly into the MHPA.
9. All construction/grading plans shall be made available to crews in the field showing these conditions.
10. Prior to the issuance of any grading permit, the ADD of LDR shall review the landscape plans to ensure that no invasive, non-native plant species shall be introduced into areas adjacent to the MHPA and CVREP.
11. All permanent lighting adjacent to the MHPA and CVREP shall be shielded, unidirectional, low pressure sodium (or similar) illumination and directed away from these areas using appropriate placement and shields.
12. Appropriate barriers shall be installed and maintained in good condition to provide a permanent barrier between the project site and the conserved MHPA open space lands.

13. The Landscape Plan shall include a note indicating that non-native plant species identified as invasive by the California Exotic Pest Plant Council shall not be used in this plant palette. Landscaping in areas adjacent to the MHPA and CVREP shall not contain invasive exotic plant species, and the plant palette use for erosion control (seed mix mixture and plantings) shall reflect those species found in the adjacent MHPA.

Historical Resources (Archaeology)

I. Prior to Permit Issuance

A. Land Development Review (LDR) Plan Check

1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, 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. 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. 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 identifying the areas to be monitored including the delineation of grading/excavation limits.
 - b. The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. 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 site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

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 which could result in impacts to archaeological resources as identified on the AME. **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 MMC during construction requesting a modification to the monitoring program when a field

condition such as modern disturbance post-dating the previous grading/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 from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
 - 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.

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 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 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 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 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 for revision or, for preparation of the Final Report.
 - 3. The PI shall submit revised Draft Monitoring Report to MMC 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
 - 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 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 that the draft report has been approved.
 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.

Transportation:

After project approval and prior to the issuance of any building permit the ADD of LDR shall ensure that the following measure has been satisfied:

The applicant shall provide 7.3 percent fairshare contribution for the planned traffic signal at the intersection of Carmel Creek Road and Tang Road.

Land Use/Visual Quality

Prior to the preconstruction meeting, the ADD of the LDR shall verify that the following project requirement is shown on the construction plans:

Retaining walls over 6 feet in height shall be landscaped, and constructed with an earthtone/sandstone color.

Waste Management

After project approval and prior to the issuance of the building permit, the owner/permittee shall provide a letter to the ADD of LDR from the Waste Reduction and Enforcement Division of the City of San Diego Environmental Services Department (ESD) approving the project's Waste Mitigation Plan. The owner/permittee will be responsible for implementing the Waste Mitigation Plan throughout the project and submitting a Summary form, along with verification of waste diversion, to ESD for approval prior to the final inspection of the project. The applicant must contact an ESD representative to obtain the required forms and to arrange a preconstruction meeting.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

Passed by the Council of The City of San Diego on SEP 19 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"/>

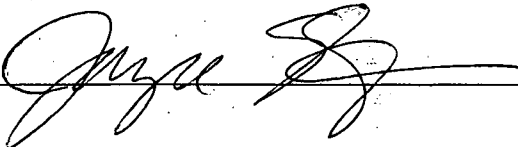
Date of final passage SEP 19 2006

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 , Deputy

Office of the City Clerk, San Diego, California
R- 301918
Resolution Number _____