

203

RESOLUTION NUMBER R- 302676

DATE OF FINAL PASSAGE JUN 04 2007

WHEREAS, the City of San Diego submitted an application to the Planning and Development Review Department of the City of San Diego for a site development permit and an easement abandonment for the Penasquitos Views Trunk Sewer Project [Project]; and

WHEREAS, the matter was set for a public hearing to be conducted by the City 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 City Council on JUN 04 2007; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 6624; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 6624, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process,

has been reviewed and considered by this Council in connection with the approval of a site development permit and an easement abandonment for the Penasquitos Views Trunk Sewer Project.

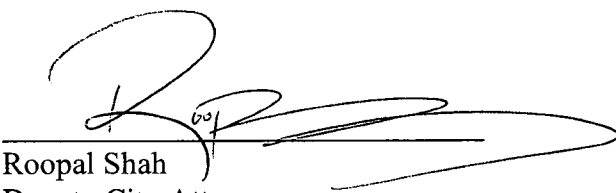
BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and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

  
Roopal Shah  
Deputy City Attorney

RS:pev  
05/21/07  
Or.Dept:DSD  
R-2007-1145  
MMS #4867  
ENVIRONMENTAL - MND 11-01-04

MITIGATION MONITORING AND REPORTING PROGRAM

**SITE DEVELOPMENT PERMIT**

Project No. 6624

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 No.6624) shall be made conditions of **SITE DEVELOPMENT PERMIT** as may be further described below.

GENERAL

Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Assistant Deputy Director (ADD) environmental designee 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*: "Los Penasquitos Views Sewer Replacement and Abandonment Project is subject to a Mitigation, Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in the Mitigated Negative Declaration 6624."

BIOLOGICAL RESOURCES

1. Prior to the issuance of a Notice to Proceed (NTP) or any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, which ever is applicable, the owner/permittee shall assure that direct impacts to sensitive upland and wetland habitats (0.320-acre of Diegan Coastal Sage Scrub; 0.247-acre of Non-native Annual Grassland; and 0.102-acre of Southern Willow Scrub) have been mitigated in accordance with Table 1. Satisfactory to the ADD environmental designee of LDR, the owner/permittee shall mitigate according to the appropriate mitigation ratios as required by the City of San Diego Biology Guidelines.

**TABLE 1. MITIGATION REQUIRED FOR PROJECT IMPACTS**

Habitat Type	Impact acres	Mitigation Ratio	Required Mitigation (acres)	Proposed Mitigation (acres)
Diegan coastal sage scrub (inside MHPA)	0.295	1:1	0.295	0.772
Diegan coastal sage scrub (outside MHPA)	0.025	1.5:1	0.038	0.038
Non-native grassland (inside MHPA)	0.079	1:1	0.079	0.079*
Non-native grassland (outside MHPA)	0.168	1:1	0.168	0.168*
Southern Willow Scrub	0.102	2:1	0.204	0.204
<b>Total</b>	<b>0.669</b>	<b>-</b>	<b>0.784</b>	<b>1.261</b>

\* Impacts to non-native grassland shall be mitigated through out-of-kind restoration with valley needlegrass grassland.

2. Prior to the issuance of a Notice to Proceed (NTP) or any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, which ever is applicable, the owner/permittee shall make arrangements to schedule a preconstruction meeting (precon meeting) to ensure implementation of the Mitigation Monitoring and Reporting Program (MMRP). The meeting shall include the Resident Engineer (RE), Principal Qualified Biologist (PQB), monitoring archaeologist, monitoring paleontologist, and staff from the City's Mitigation Monitoring Coordination (MMC) Section.
3. The applicant is responsible for retaining a qualified biologist (as outlined within the City of San Diego Biological Review References). Prior to the first precon meeting, the applicant shall submit for approval a letter verifying the qualifications of the biological professional to MMC. This letter shall identify the PQB and Qualified Biological Monitor (QBM), where applicable, and the names of all other persons involved in the implementation of the revegetation/restoration plan and biological monitoring program, as they are defined in the City of San Diego Biological Review References.
  - A. At least thirty days prior to the precon meeting, the PQB shall verify that any special reports, maps, graphics, specifications, plans, letters and timelines, such as but not limited to, revegetation/restoration, planting, irrigation, and erosion control plans, avian or other wildlife protocol surveys, impact avoidance areas or other such information has been completed and updated.
  - B. The PQB or QBM shall supervise the placement of orange construction fencing or City approved equivalent, along the limits of potential disturbance adjacent to (or at the edge of) all sensitive habitat as shown on the approved Exhibit A.
  - C. All construction activities (including staging areas) shall be restricted to the development area as shown on the approved Exhibit A. The PQB or approved QBM shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved Exhibit A.
4. Prior to the first precon meeting and/or any construction activity, the owner/permittee shall provide detailed revegetation/restoration plans and specifications satisfactory to the ADD Environmental designee of LDR. The plans and specifications for the upland restoration and wetland enhancement must be found in conformance with the revegetation plan in the *Biological Resources Report for the Los Penasquitos Views Trunk Sewer Replacement Project*, prepared by *Tierra Environmental* on March 14, 2006. All conditions associated with the *Biological Resources Report for the Los Penasquitos Views Trunk Sewer Replacement Project* revegetation plans shall be incorporated onto the landscape construction documents (LCD) as required by the City of San Diego DSD Landscape Architecture Section (LAS) for review and approval.
  - A. WETLAND CREATION: Prior to the start of construction, the owner/permittee shall submit written verification that 0.192 acre of wetland creation area has been set aside in the Los Penasquitos North Mitigation Site.
  - B. TRANSPLANT: Prior to the start of the construction the owner/permittee shall provide the City of San Diego Park and Recreation Department the opportunity to salvage California adolphia and San Diego marsh elder individuals that would otherwise be directly impacted by project construction.
  - C. RESTORATION GOAL: The project shall restore and enhance 1.057 acres of upland habitat and enhance 0.012 acres of wetlands onsite within Los Penasquitos Canyon.

D. RESPONSIBILITIES: A Principal Qualified Biologist (PQB) or Principal Restoration Specialist (PRS) shall be retained to supervise the revegetation process. The PQB or PRS shall have a formal educational background in biology, ecology, landscape architecture, horticulture, or related field and shall have at least two years successful experience supervising native habitat revegetation/restoration projects in southern California. The PQB or PRS is responsible for designing and overseeing the revegetation effort (including revegetation design, irrigation layout, planting and seeding, weed eradication, erosion control, and long-term biological monitoring), and for preparing interim and annual reports describing the status of the effort. The PQB or PRS will assist the land owner and revegetation contractor with any decisions regarding the need for specific treatments and remedial actions. The revegetation plan shall be implemented by a qualified firm holding a C-27 landscape contractor's license issued by the State of California, and a Pesticide Applicator's License issued by the California State Department of Pesticide Regulation. The Revegetation Installation Contractor (RIC) and Revegetation Maintenance Contractor (RMC) shall be able to demonstrate experience installing and maintaining at least one successful native habitat revegetation project in southern California including experience in non-native species control and management within natural habitat areas. The RIC and RMC is responsible for all site preparation, weed eradication, installation of irrigation system components, installation of plant materials and native seed mixes, and any necessary maintenance activities or remedial actions required during installation, and the five year long-term maintenance and monitoring period as described in Section III below.

E. BIOLOGICAL MONITORING REQUIREMENTS: The monitoring program shall include qualitative and quantitative vegetation sampling in both the upland restoration and the wetland enhancement areas as outline in Table 2.

- i. All biological monitoring shall be conducted by a PQB or QBM, as appropriate, consistent with the LCD:

Monitoring shall involve both qualitative horticultural monitoring and quantitative monitoring (i.e., performance/successes criteria). Horticultural monitoring shall focus on soil conditions (e.g. moisture and fertility), container plant health, seed germination rates, presence of native and non-native (e.g. invasive exotic) species, any significant disease or pest problems, irrigation repair and scheduling, trash removal, illegal trespass, and any erosion problems.

Monitoring shall be conducted quarterly for year 1; semiannually for years 2-3; and annually for years 4-5. Three quarterly reports and an annual report shall be prepared for year 1. One semi-annual report and one annual report shall be prepared for years 2-3. One annual report shall be prepared for years 4-5. These reports shall be submitted to the owner/permittee for distribution to the ADD environmental designee of LDR to determine compliance with the performance standards identified on the LCD. All plant material must have survived without supplemental irrigation for the last two years. The results of these surveys shall be forwarded to the owner/permittee for distribution to the ADD environmental designee of LDR, Park and Recreation Department, MSCP, pertinent resource agencies, and MMC.

Quantitative monitoring shall include the use of fixed transects and photo points to determine the vegetative cover within the revegetated habitat. Collection of fixed transect data within the revegetation/restoration site shall result in the calculation of percent cover for each plant species present, percent cover of target vegetation, tree height and percent cover on non-native/non-invasive

vegetation. Container plants shall also be counted to determine percent survivorship. The data shall be used to determine attainment of performance/success criteria identified within the LCD.

The results of these surveys shall be forwarded to the owner/permittee for distribution to the ADD environmental designee of LDR, Park and Recreation Department, and MMC. At end of year one, permanent vegetation sampling stations shall be established within each Revegetation site to measure year-to-year changes in shrub cover, height, density, and diversity. Transect data shall be collected at the end of years one through five.

Biological monitoring requirements may be reduced if, before the end of the fifth year, the revegetation meets the fifth year criteria and the irrigation has been terminated for a period of at least two years. The PQB or QBM shall oversee implementation of post-construction BMPs such as gravel bags, straw logs, silt fences or equivalent erosion control measure as needed to ensure prevention of any significant sediment transport. In addition, the PBQ/QBM shall be responsible for verifying the removal of all temporary post-construction BMPs upon completion of construction activities. Removal of temporary post-construction BMPs shall be verified in writing on the final post-construction phase Consultant Site Visit Records Forms.

Monitoring Schedule (Table 2)

Type/Task	Year 1	Year 2	Year 3	Year 4	Year 5
Qualitative and Quantitative Vegetation monitoring	Quarterly	Semi-Annually	Semi-Annually	Annually	Annually

A. PERFORMANCE CRITERIA: The performance standards for the mitigation effort are as follows:

Milestone	Survival	Percent Germination	Minimum tree height	Percent Coverage
<b>End of Year 1</b>				
Diegan Coastal Sage Scrub	90 percent survival of container stock	50%	-	20%
Native Grassland	-	50%	-	10%
Southern Willow Scrub	90 percent survival of container stock	50%	-	20% cover by tree species
<b>End of Year 2</b>				
Diegan Coastal Sage Scrub	100 percent survival of container stock that survived year 1	-	-	30%
Native Grassland	-	-	-	15%
Southern Willow Scrub	100 percent survival of container stock that survived year 1	-	-	30% cover by tree species 35% seed cover
<b>End of Year 3</b>				
Diegan Coastal Sage Scrub	100 percent survival of container stock that survived year 1	-	-	40%
Native Grassland	-	-	-	20%

Milestone	Survival	Percent Germination	Minimum tree height	Percent Coverage
Southern Willow Scrub	100 percent survival of container stock that survived year 1	-	8 feet	45% cover by tree species 50% seed cover
<b>End of Year 4</b>				
Diegan Coastal Sage Scrub	100 percent survival of container stock that survived year 1	-	-	50%
Native Grassland	-	-	-	25%
Southern Willow Scrub	100 percent survival of container stock that survived year 1	-	10 feet	65% cover by tree species 50% seed cover
<b>End of Year 5</b>				
Diegan Coastal Sage Scrub	100 percent survival of container stock that survived year 1	-	-	60%
Native Grassland	-	-	-	30%
Southern Willow Scrub	100 percent survival of container stock that survived year 1	-	12 feet	65% cover by tree species 50% seed cover

G. MAINTENANCE REQUIREMENTS: 120-day Plant Establishment Period (PEP) – The Revegetation Contractor shall be responsible for the maintenance of the mitigation areas for a minimum period of 120 days. Maintenance activities shall include, at a minimum, all items described within the *Los Penasquitos Views Trunk Sewer Replacement Project Revegetation Plans*. At the end of this period, MMC and EAS shall review the mitigation areas with the owner/permittee, PQB, Revegetation Contractor, City of San Diego Park and Recreation Department, MSCP, and pertinent resource agencies to determine the completion of the PEP. Any punch-list items developed during this review shall be completed by the PQB prior to acceptance of the mitigation installation and initiation of the five-year maintenance and monitoring period.

Five-Year Maintenance and Monitoring Program – Maintenance activities shall include all items described within the *Los Penasquitos Views Trunk Sewer Replacement Project Revegetation Plans*. Plant replacement shall be conducted by the PQB's technical assessment.

H. REMEDATION AND/OR CONTINGENCY MEASURES: If an annual performance criterion is not met for all or a portion of the revegetation program project in any year, or if the final success criteria are not met, the owner/permittee shall prepare an analysis of the cause(s) of failure, and if determined necessary, propose remedial action for approval. If the mitigation areas have not met any performance criteria, the maintenance and monitoring obligations shall continue until the City gives the project final approval as having met all permit conditions and success criteria. Funding for contingency remedial measures shall be the responsibility of the owner/permittee.

I. NOTIFICATION OF COMPLETION: Upon achievement of the fifth year success standards and completion of the five-year maintenance period, the Revegetation Contractor shall prepare and certify a Final Monitoring and Notice of Completion report. This notification may occur before the five years (can occur within the three-year time frame), if the site meets its fifth year criteria and the irrigation has been terminated for a period of at least two years. The Final monitoring and Notice of Completion report shall be submitted to MMC, ADD environmental designee of LDR, City of San Diego Park and

Recreation Department, MSCP, and pertinent resource agencies for evaluation of the success of the mitigation effort and final acceptance. The Final Monitoring and Notice of Completion report shall make a determination of whether the requirements of the mitigation plan have been achieved. If at the end of five years, any of the revegetated areas fail to meet the project's final performance standards, the owner/permittee must consult with the pertinent resource agencies, ADD environmental designee of LDR, MMC, MSCP, and the City of San Diego Park and Recreation Department. This consultation shall determine whether revegetation efforts are acceptable. The owner/permittee understands that failure of any significant portion of the mitigation areas may result in a requirement to replace or revegetated that portion of the site and/or extend the monitoring and maintenance period until all success standards are met.

6. The owner/permittee shall provide evidence\* of the following to the ADD environmental designee of LDR prior to any construction activity the following:
  - A. Compliance with U.S. Army Corps of Engineers (ACOE) Section 404 nationwide permit;
  - B. Compliance with the Regional Water Quality Control Board Section 401 Water Quality Certification; and
  - C. Compliance with the California Department of Fish and Game Section 1601 Streambed Alteration Agreement.

\* Evidence shall include either copies of permits issued, letter of resolutions issued by the responsible agency documenting compliance, or other evidence documenting compliance and deemed acceptable by the ADD environmental designee of LDR.

7. The creation of the proposed permanent access path in Los Penasquitos Canyon creates a new public access and potentially increases recreation activity which could impact native habitat. A barrier to vehicular activity and appropriate signage shall be installed at the beginning of the permanent access paths to regulate unauthorized entry into the area.
8. The top 6 inches of topsoil shall be removed from the proposed construction trench and any other areas that will be revegetated with native habitat. Topsoil shall be stockpiled until after the sewer line construction work is complete. Topsoil shall not be piled higher than four feet and shall be kept cool and dry. After the construction work is complete, the topsoil shall be placed over the surface of the disturbed construction trench where revegetation of native habitat is proposed.
9. Excess soil shall be used to re-contour and restore graded areas to pre-construction contours. Impacted drainage channels shall be restored to original contours
10. All pathway fill material shall be re-compacted to levels that are appropriate for permanent path structure to help reduce erosion and the longevity of the access paths.
11. Proper drainage shall be considered in the permanent access path design. The access path shall be graded to disperse runoff. This can be achieved with a cross slope of sufficient gradient that will withstand long term, periodic vehicular maintenance traffic. Paths shall be cross-sloped 3-5 percent to disperse water. Earthen road-edge berms and/or a drainage swales located at the inside of the road surface shall be avoided as these features concentrate flow and create and additional long-term maintenance effort.



12. An erosion control native seed mix shall be installed via hydroseed equipment over the unpaved permanent access road being created for the new pipeline.
13. Weed control shall be conducted three times annually and as-needed for the life of the access path to prevent the conversion of native habitat to non-native vegetation. Weed control may be discontinued upon the recommendation of the project biologist and approval of the MMC, ADD environmental designee of LDR, and City of San Diego Park and Recreation Department.

#### LAND USE/MSCP

1. Prior to initiation of any construction-related grading, the biologist shall discuss the sensitive nature of the adjacent habitat with the crew and subcontractor.
2. The limits of grading 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 construction grading.
3. 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. If lighting adjacent to the MHPA is required for nighttime construction, it shall be unidirectional, low pressure sodium illumination (or similar), and it shall be directed away from the preserve areas and the tops of adjacent trees with potentially nesting raptor species, using appropriate placement and shields.
4. No staging/storage areas for equipment and materials shall be located within or adjacent to environmentally sensitive habitats. No equipment maintenance shall be conducted within or near these areas.
5. 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.
6. No trash, oil, parking or other construction related activities shall be allowed outside the established temporary construction easement as shown on the construction drawings. All construction related debris shall be removed off-site to an approved disposal facility.
7. Prior to the precon meeting, the ADD environmental designee of LDR shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher, Least Bell's Vireo, and the Southwestern Willow Flycatcher are shown in the construction documents:

#### COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

Prior to the precon 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:

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 further mitigation measures are necessary.

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

Prior to the precon 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:

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

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

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 further mitigation measures are necessary.

SOUTHWESTERN WILLOW FLYCATCHER (Federally Endangered)

Prior to the preconstruction meeting, the City Manager (or appointed designee) shall verify that the following project requirements regarding the southwestern willow flycatcher are shown on the construction plans:

No clearing, grubbing, grading, or other construction activities shall occur between May 1 and September 1, the breeding season of the Southwestern Willow Flycatcher, until the following requirements have been met to the satisfaction of the city manager:

- A. A qualified biologist (possessing a valid endangered species act section 10(a)(1)(a) recovery permit) shall survey those wetland areas that would be subject to construction noise levels exceeding 60 decibels [db(a)] hourly average for the presence of the Southwestern Willow Flycatcher. Surveys for this species shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife Service within the breeding season prior to the commencement of any construction. If the Southwestern Willow Flycatcher is present, then the following conditions must be met:

Between May 1 and September 1, no clearing, grubbing, or grading of occupied Southwestern Willow Flycatcher habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; and

Between May 1 and September 1, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 db(a) hourly average at the edge of occupied southwestern willow flycatcher habitat. an analysis showing that noise generated by construction activities would not exceed 60 db(a) hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the city manager at least two weeks prior to the commencement of construction activities. prior to the commencement of

construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; or

At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 db(a) hourly average at the edge of habitat occupied by the Southwestern Willow Flycatcher. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring\* shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 db(a) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 1).

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

- B. If Southwestern Willow Flycatcher are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the city manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary between May 1 and September 1 as follows:
  - I. If this evidence indicates the potential is high for southwestern willow flycatcher to be present based on historical records or site conditions, then condition A.III shall be adhered to as specified above.
  - II. If this evidence concludes that no impacts to this species are anticipated, no additional mitigation measures are necessary.

#### RAPTORS

- 1. If there is a potential for indirect noise impacts to nesting raptors, prior to construction within the development area during the raptor breeding season (February 1 through September 15) the biologist shall conduct a preconstruction survey to determine the presence of active raptor nests. If active nests are detected, the biologist in consultation with EAS staff shall establish a species appropriate noise buffer zone. No construction shall occur within this zone.

#### PALEONTOLOGICAL RESOURCES

##### **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/Bid Award, 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. 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 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. 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 paleontological monitoring program.

**3. 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 for approval identifying the areas to be monitored including the delineation of grading/excavation limits.

- b. 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).
  - c. MMC shall notify the PI that the PME 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 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.
5. Approval of PME and Construction Schedule

After approval of the PME by MMC, the PI shall submit to MMC written authorization of the PME 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 PME and as authorized by the CM that could result in impacts to formations with high and/or moderate resource sensitivity at depths of 10 feet or greater and as authorized by the construction manager. **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 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 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 of the program from MMC, MC and/or RE. PRP 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 (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.

(1) Note: For Pipeline Trenching Projects Only. If the fossil discovery is limited in size, both in length and depth; the information value is limited and there are no unique fossil features associated with the discovery area, then 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 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 fossil resources within the trench alignment and width shall be documented in-situ photographically, drawn in plan view (trench and profiles of side walls), recovered from the trench and photographed after cleaning, then analyzed and curated consistent with Society of Invertebrate Paleontology Standards. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact and so documented.
  - 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 forms for the San Diego Natural History Museum) the resource(s) encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines. The forms shall be submitted to the San Diego Natural History Museum 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. 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 CSV and submit to MMC via the RE 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.

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 Paleontological 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 paleontological resources encountered during monitoring, the Paleontological Recovery Program or Pipeline Trenching Discovery Process 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 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 Fossil Remains

1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.

C. Curation of artifacts: 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 submit the Deed of Gift 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 Deed of Gift 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 two copies of the Final Monitoring Report 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.

HISTORICAL RESOURCES (ARCHAEOLOGY)

**Prior to Permit Issuance or Bid Opening/Bid Award**

A. Land Development Review (LDR) Plan Check

Prior to permit issuance or Bid Opening/Bid Award, 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.

## 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 ¼ 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.

- b. 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).

- c. 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.

**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.
2. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

#### **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 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.

### **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.

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.**

### **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

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.