

RESOLUTION NUMBER R- 302965

DATE OF FINAL PASSAGE SEP 04 2007

WHEREAS, Pardee Homes, LLC, a California Corporation, submitted an application to the City of San Diego for an easement abandonment, vesting tentative map and site development permit for the Carmel Highlands Village 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, the issue was heard by the City Council on SEP 04 2007; 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 City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the City Council considered the issues discussed in Addendum to Environmental Impact Report and Subsequent Environmental Impact Report No. 72522; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Addendum to Environmental Impact Report and Subsequent Environmental Impact Report No. 72522, 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 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 this Council in connection with the approval of an easement abandonment, vesting tentative map and site development permit for the Carmel Highlands Village project.

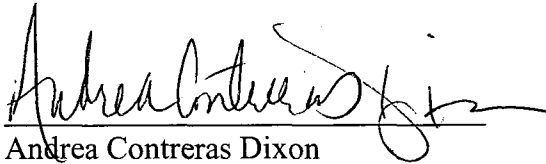
BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the office of the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED, that pursuant to California Code of Regulations section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the office of the City Clerk and incorporated herein by reference, with respect to the project.

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 
Andrea Contreras Dixon
Deputy City Attorney

ACD:pev
07/27/07
Or.Dept:DSD
R-2009=102
MMS #5128
ENVIRONMENTAL - EIR 11-01-04

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

EASEMENT ABANDONMENT/ VESTING TENTATIVE MAP / SITE DEVELOPMENT PERMIT

Project No. 72522

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 Addendum to an Environmental Impact Report and Subsequent Environmental Impact Report No. 72522 shall be made conditions of Site Development Permit No. 423678 as may be further described below.

Although no mitigation is required for any new issue areas associated with this project, in order to comply with current standards, previous applicable mitigation measures outlined in LDR 96-0736(7) and 91-0834 have been updated and are presented below to provide site specific mitigation for this project. Please note, in order to ensure MMRP compliance, the first three general mitigation measures have been added.

GENERAL

1. Prior to issuance of the grading permit or commencement of any construction related activity on-site, the Assistant Deputy Director (ADD) (aka Environmental Review Manager (ERM)) of the City's Land Development Review Division (LDR) shall review and approve contract documents, plans, and specifications to insure that Mitigation, Monitoring and Reporting Requirements (MMRPs) are included verbatim on the above documents under the heading, "Environmental Requirements". If a coversheet and index are provided, the index shall include "Environmental Requirements" and the sheet/page they are found on verbatim. Project No. 72522 is subject to a Mitigation Monitoring and Reporting
2. The following requirement shall also appear with the "Environmental Requirements". "Project grading (and construction where applicable) is conditioned to include the monitoring of a qualified biologist and qualified paleontologist. The project shall conform to the mitigation conditions as contained in the environmental document (LDR No. 96-0736(7) and as included in this Section VI. The measures may not be reduced or changed but may be annotated (i.e. to explain when and how compliance was met and location of verifying proof, etc). Additional clarifying information may also be added to other relevant plan sheets as appropriate (i.e. specific locations/times of monitoring, etc.).
3. 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 and Paleontologist, and a City's Mitigation Monitoring Coordination (MMC) Section Representative.

BIOLOGICAL RESOURCES

DIRECT IMPACTS

4A. Prior to issuance of the grading permit or commencement of any construction related activity on-site (whichever comes first) direct impacts to 0.07 acres of Tier III non-native grassland habitat (NNGL) and 0.31 acres of Tier II coastal sage scrub habitat (CSS) inside the MHPA must be mitigated to the satisfaction of the ADD of LDR in one of the following ways or in an equivalent combination:

Option A. The owner/permittee shall record a Covenant of Easement, Conservation Easement, or dedication in fee title to the City of San Diego for mitigation inside the MHPA for both habitats at a 1:1 ratio or 0.38 acres within Tiers I-III.

Option B. The owner/permittee shall record a Covenant of Easement, Conservation Easement, or dedication in fee title to the City of San Diego for mitigation outside the MHPA at respective ratios of 2:1 and 1.5:1 outside the MHPA with a total of 0.14 acres of CSS and a total of 0.465 acres of NNGL.

Option C. The owner/permittee shall pay a total of \$10,450 into the City's Habitat Acquisition Fund No. 1059. (Assumes mitigation within MHPA at the current City rate of \$25,000 per impacted acre, + a 10% handling and maintenance fee or $0.38 \times 25,000 + 950 = \$10,450$)

4B. If mitigation for biological impacts takes place on-site via dedication of 2.87 acres of CSS within Lot B; no mitigation credits will be given for any excess over the required 0.38 acres amount.

COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

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

NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR WITH THE MHPA OR ADJACENT EXTENSION OF THE MHPA HABITAT 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 WHOLLY OR PARTIALLY WITHIN THE MHPA THAT WOULD BE SUBJECT TO DIRECT IMPACTS OR CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE COASTAL CALIFORNIA GNATCATCHER. SURVEYS FOR THE COASTAL CALIFORNIA GNATCATCHER SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION. IF GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:

I. BETWEEN MARCH 1 AND AUGUST 15, NO CLEARING, GRUBBING, OR GRADING OF OCCUPIED GNATCATCHER HABITAT SHALL BE PERMITTED. AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; AND

BETWEEN MARCH 1 AND AUGUST 15, NO CONSTRUCTION ACTIVITIES SHALL OCCUR WITHIN ANY PORTION OF THE SITE WHERE DIRECT IMPACTS WOULD OCCUR OR 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 BIOLOGIST AND ACOUSTICIAN, GRADING BUFFERS AND/OR 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).

* Nest and construction noise monitoring shall continue at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that no direct impacts occur and/or 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 potential direct impacts are identified and if the noise levels affecting nesting birds are not reduced to 60dB or less; then other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce all direct and indirect impacts. Such measures may include, but are not limited to, limitations on grading area, the placement of construction equipment, and or limitation on 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 GRADING

BUFFERS AND/OR NOISE WALLS ARE NECESSARY BETWEEN MARCH 1 AND AUGUST 15 AS FOLLOWS:

- I. IF THIS EVIDENCE INDICATES THE POTENTIAL IS HIGH FOR COASTAL CALIFORNIA GNATCATCHER TO BE PRESENT BASED ON HISTORICAL RECORDS OR SITE CONDITIONS, THEN CONDITION A.III SHALL BE ADHERED TO AS SPECIFIED ABOVE.
- II. IF THIS EVIDENCE CONCLUDES THAT NO IMPACTS TO THIS SPECIES ARE ANTICIPATED, NO MITIGATION MEASURES WOULD BE NECESSARY EXCEPT IF NESTS ARE SUBSEQUENTLY DISCOVERED DURING CONSTRUCTION AS DESCRIBED BELOW.

During Construction

6. If nests (or CA gnatcatcher or other state or federally protected bird species) are discovered during construction activities, the biologist shall notify the Resident Engineer (RE) and Mitigation Monitoring and Coordination Staff (MMC) and the RE shall stop work in the vicinity of the nests.

7. The qualified biologist shall mark all pertinent trees, holes, or shrubs and delineate the appropriate "no construction" buffer area per City ESL and/or the USFWS/CDFG's direction, 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.

Post Construction

8. 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.
9. 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.
10. For any unforeseen additional biological resources impacted during construction, 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.
11. This report shall address findings of active/inactive nests and any recommendations for retention of active nests, removal of inactive nests and mitigation for offsetting loss of breeding habitat.
12. MMC shall notify the RE of receipt of the Final Biological Monitoring Report.

LAND USE (MHPA Adjacency)

13. Prior to issuance of grading permits, the City shall verify that the project is in compliance with the MSCP Subarea Plan's Land Use Adjacency Requirements; and that the following site specific requirements are noted on the grading plans under the heading Environmental Requirements:
 - A. The qualified biologist (project biologist) shall supervise the placement of an orange construction fence or equivalent along the boundary of the development area as shown on the approved grading plan.
 - B. The project biologist shall meet with the owner/permittee or designee and the construction crew to conduct an on-site educational session regarding the need to avoid impacts outside of the approved development area.
 - C. During grading activities, the Best Management Practices for erosion control shall be implemented and monitored as needed to prevent any significant sediment transport. These practices may include but may not be limited to the following: the use of materials such as gravel bags, fiber rolls, sediment fencing, and erosion control matting to stabilize disturbed areas; and installation of erosion control

materials, particularly on the down slope side of disturbed areas to prevent soil loss.

- D. All construction activities shall take place only inside the fenced area. Grading materials shall be stored inside the fenced development area only.
- E. Prior to the release of the grading bond, the project biologist shall submit a letter report to the Environmental Review Manager that assesses any project impacts resulting from construction. In the event that impacts exceed the allowed amounts, the additional impacts shall be mitigated in accordance with the City of San Diego Land Developmental Code, Biology Guidelines, to the satisfaction of the City Manager.
- F. All toxins and drainage run-off from proposed roads, structures and development areas associated with the project must be filtered and routed to an existing storm drain system or other City Engineer approved structure. Graded slopes will be revegetated per the City's Landscape Manual.
- G. All lighting associated with the project will be shielded and directed away from the urban/natural edge.
- H. All plantings at the urban/natural edge shall be native, drought tolerant, and acceptable to the fire marshal. No invasive/non-native species shall be located on-site where they have the potential to invade on-site, or adjacent natural lands.
- I. All uses in or adjacent to the MHPA shall be designed to minimize noise impacts. See also specific noise mitigation for breeding birds listed under biology.
- J. Appropriate barriers shall be installed adjacent to the MHPA to direct public access to appropriate locations and reduce domestic animal predation on wild native animals.
- K. Brush management shall not take place in wider zones or greater scope than required by current City code. For existing native areas, required woody vegetation clearing shall not exceed 50% of that existing when initial clearing is done and clearing shall avoid covered or narrow endemic plant species to the maximum extent possible.

LANDFORM ALTERATION/VISUAL QUALITY

- 14. Prior to issuance of any grading permits and/or recording of the first final map (which ever comes first), the applicant/permittee shall demonstrate to the ADD of LDR that this measure is shown on the VTMs, landscape plans and other applicable future subdivision maps. The maps must demonstrate that contour grading shall occur on-site for any slopes over 10 feet in height and that in no case shall gradients exceed a 2:1 gradient (except internal side yard slopes less than 5 feet in height may be constructed a maximum gradient of 1.5:1) and that fill has been minimized on canyon slopes per the adopted 1997 (i.e. to the maximum extent feasible, grading shall cut to daylight lines along canyon rims). The plans shall also indicate that buildings heights are no greater than 35 feet, and that neutral colors and screening landscape shall be utilized.

PALEONTOLOGICAL RESOURCES (5/23/05 version)

15. **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.

16. **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.

17. **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 (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

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.

18. **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.

19. **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.

VII. SIGNIFICANT UNMITIGATED IMPACTS:

There are no new significant impacts identified for the current project. The original N-10 EIR (LDR No. 91-0834); however, listed significant unmitigated impacts to biological resources, landform alteration/visual quality, land use and cultural resources and cumulatively significant impacts to transportation/traffic, air quality, landform alteration/visual quality, water quality, and biology.

In addition, the N-10 Amendment EIR (LDR No. 96-0736)7) listed one significant unmitigated impact to landform alteration/visual quality. In the final EIR, this impact was mitigated through revision of the MMRP to include mitigation for the loss of 22.3 acres of open space; which was set aside as mitigation land via EIR 91-0834; as well as additional mitigation for various other biological impacts included on Errata Sheet page E-3, (attached). The mitigation requirements on the Errata are also addressed above in Section III –Discussion under Biological Resources. Finally, EIR 96-0636(7) identified cumulative impacts (significant unmitigated) impacts to transportation/traffic circulation, air quality, landform alteration/visual quality, hydrology/water quality, biology, and public services/elementary schools.

Because there are significant unmitigated impacts associated with the original and subsequent project EIR's, approval of the project required the decisionmakers to make specific and substantiated CEQA Findings which stated that:

- a) specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR, and
- b) these impacts have been found acceptable because of specific overriding considerations. No new CEQA Findings are required with this project.

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.