

(R-2009-337) <sup>336</sup> (A)  
MEET

10/21/08

RESOLUTION NUMBER R- 304289

DATE OF FINAL PASSAGE OCT 21 2008

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING ENVIRONMENTAL IMPACT REPORT LDR NO. 44675, ADOPTING THE MITIGATION, MONITORING, AND REPORTING PROGRAM AND ADOPTING THE STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE SALK INSTITUTE PROJECT.

WHEREAS, the Salk Institute for Biological Studies, a California non-profit public benefit corporation, Owner/Permittee, filed an application with the City of San Diego for a Coastal Development Permit, Site Development Permit, Master Planned Development Permit, Multi-Habitat Planning Area boundary line adjustment, and amendment to Coastal Development Permit/Hillside Resource Protection/Conditional Use Permit No.90-1140 for the Salk Institute Project to demolish 29,000 square feet of existing buildings and construct an additional 215,200 square feet of laboratory, research, and development facilities, for a total build out of 476,000 square feet on portions of a 26.34-acre site, located at 10010 North Torrey Pines Road and legally described as Portion of Parcel 1 of Parcel Map No.14013, in the University Community Plan [UCP] area, in the R-S-1-7 zone, Coastal Overlay (Appealable), Coastal Height Limit Overlay, and Community Plan Implementation Overlay (Area A – CPIOZ-A) Zones; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter required the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals

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affected by the decision, and 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 matter was set for a public hearing to be conducted by the Council of the City of San Diego; and

WHEREAS, the issue was heard by the City Council on OCT 21 2008;

and

WHEREAS, the City Council considered the issues discussed in Environmental Impact Report LDR No. 44675; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Environmental Impact Report LDR No. 44675, 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.

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

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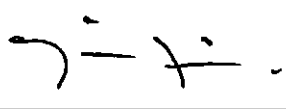
copy of which is on file in the office of the City Clerk and incorporated herein by reference, with respect to the project.

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

  
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Nina M. Fain  
Deputy City Attorney

NMF:mm  
09/16/08  
Or.Dept:DSD  
R-2007-326  
MMS#6729

(R-2009-337)

**EXHIBIT A  
MITIGATION MONITORING AND REPORTING PROGRAM  
THE SALK INSTITUTE**

**EIR LDR NO. 44675, Project No. 44675**

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with California 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. The City of San Diego, Engineering and Capital Projects Department and the Development Services Department are jointly responsible for ensuring that this program is carried out.

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## EXHIBIT C

### MITIGATION MONITORING AND REPORTING PROGRAM

SALK INSTITUTE MASTER PLAN, Vesting Tentative Map, Master Planned Development Permit, Coastal Development Permit, Site Development Permit, an amendment to CDP/HRP/CUP No. 90-1140, Easement Abandonment, and a Multiple Habitat Planning Area (MHPA) Boundary Line Adjustment

PROJECT NO. 44675

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 Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report No. 44675 shall be made conditions of Vesting Tentative Map, Master Planned Development Permit, Coastal Development Permit, Site Development Permit, an amendment to CDP/HRP/CUP No. 90-1140, Easement Abandonment, and a Multiple Habitat Planning Area (MHPA) Boundary Line Adjustment as may be further described below.

#### GENERAL

1. Prior to issuance of a Notice to Proceed (NTC), the Assistant Deputy Director (ADD) Environmental Designee of the Entitlements Division shall verify that Mitigation Measures 5.4-1 through 5.4-14 (Historical Resources) and 5.10-1 through 5.10-5 (Paleontological Resources) have been included in their entirety on the submitted construction documents and contract specifications, and included under the heading, "Environmental Mitigation Requirements." In addition, the requirements for a Preconstruction Meeting shall be noted on all construction documents.
2. Prior to the commencement of work, a Preconstruction Meeting (Pre-con) shall be conducted and include the City of San Diego's Mitigation Monitoring Coordination (MMC) Section, Resident Engineer, Building Inspector, Project Biologist, Project Archaeologist and Paleontologist, Applicant and other parties of interest.
3. Evidence of compliance with other permitting authorities is required, if applicable. Evidence shall include either copies of permits issued, letters of resolution issued by the Responsible Agency documenting compliance, or other evidence documenting compliance and deemed acceptable by the ADD Environmental Designee.

#### A. BIOLOGICAL RESOURCES

Impacts to sensitive upland habitats total less than 0.1 acre (i.e., 0.08 acre) and thus are not considered significant according to the City's significance guidelines. No impacts would occur to wetland or

riparian habitats, southern willow scrub, or vernal pools. No mitigation for habitat impacts is required. A total of approximately 7.82 acres of habitat would be preserved on site. A net 1.27 acres is proposed to be added to the MHPA preserve. Preserved habitats include maritime succulent scrub, Diegan coastal sage scrub (including disturbed), southern maritime chaparral, southern mixed chaparral, non-native grassland, southern willow scrub, and vernal pools.

The following measure would reduce potential biological resource impacts to nesting raptors to below a level of significance.

5.3-1 If removal of any eucalyptus trees or other trees used by raptors for nesting within the development area for the Torrey East Building and greenhouses is proposed during the raptor breeding season (February 1 through September 15), a qualified biologist shall ensure that no raptors are nesting in such trees, to the satisfaction of the Mayor/Environmental Designee. If construction occurs during the raptor breeding season, a preconstruction survey shall be conducted and no construction shall occur within 300 to 500 feet of any occupied nest(s) until the young fledge. Should the biologist determine that raptors are nesting, the trees shall not be removed until after the breeding season.

To ensure Habitat Management Plan (HMP) implementation, the following measure that requires applicant funding for the HMP endowment is provided.

5.3-2 Prior to issuance of the first grading permit which would allow the disturbance of native habitat, the project applicant shall fully fund the Habitat Management Plan endowment of \$44,500.

Indirect impacts due to noise, brush management/invasive species intrusion, and grading/land development are potentially significant despite compliance with City regulations and the MSCP Subarea Plan; however, measures described below would mitigate such impacts to a level less than significant and ensure that the proposed project is in conformance with the MSCP Land Use Adjacency Guidelines.

5.3-3 Prior to the first pre-construction meeting for the Salk Community Center Building, north lawn core facility and northern parking structure, the Mayor/Environmental Designee shall verify that the 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 within 500 feet of the MHPA 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 Mayor/Environmental Designee:

- A. A qualified biologist (possessing a valid ESA Section 10(a)(1)(A) Recovery Permit) shall survey appropriate habitat (coastal sage scrub) areas within the off-site MHPA that lie within 500 feet of the project footprint and would be subject to construction noise levels exceeding 60 dB(A) hourly average for the presence of the coastal California gnatcatcher. If no appropriate habitat is present then the surveys will not be required. If appropriate habitat is present, surveys for the coastal California gnatcatcher shall be conducted pursuant to the protocol survey guidelines established by the USFWS within the breeding season prior to the commencement of any construction. If gnatcatchers are present within the MHPA, 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 within the MHPA. 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 within the MHPA. 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 Mayor/Environmental Designee 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 (within the MHPA) 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 within the MHPA 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 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 within the MHPA 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 Mayor/Environmental Designee, as necessary, to reduce noise levels within occupied MHPA habitat 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.

If coastal California gnatcatchers are not detected within the MHPA during the protocol survey, the qualified biologist shall submit substantial evidence to the Mayor/Environmental Designee 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:

- 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.
- If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.

5.3-4 Prior to issuance of any grading permits for projects adjacent to the MHPA, the City shall review the final landscaping plan(s) for the Salk Community Center to ensure



that plants in any category of the California Invasive Plant Council (Cal-IPC) 2006 list, or otherwise known to the City to be invasive species, are not being used.

- 5.3-5 Prior to grubbing, clearing, and/or grading for the Salk Community Center Building and northern parking garage, a pre-construction meeting shall be conducted with the project biologist and the construction supervisors. All sensitive areas to be avoided shall be flagged, and the contractors shall be informed regarding no-entry areas.
- 5.3-6 Prior to grubbing, clearing, and/or grading for the Salk Community Center Building and northern parking garage, the entire limits of grading shall be fenced with silt fencing and orange construction fencing to preclude entry into sensitive MHPA or other preserved areas.
- 5.3-7 During grading for the Salk Community Center Building and northern parking garage, a biological monitor shall conduct site visits to assure that construction personnel and equipment do not encroach upon any sensitive areas.

## **B. HISTORICAL RESOURCES**

The following measures would reduce potential historical resource impacts related to spatial relationships and the east parking lot landscaping, associated with Rehabilitation Standards 2 and 9, to below a level of significance.

- 5.4-1 All healthy Chinese Fringe trees shall be carefully removed from the planting beds within the existing east parking lot and replanted as part of the landscaping for the proposed Torrey East Building. The trees shall remain in proximity to their original location and provide a tangible link to the history of the site.
- 5.4-2 The landscape concept plan shall restore as much of the Institute's original perimeter plantings as possible, as shown in the Landscape Design Guidelines. The Institute shall inventory its existing perimeter plantings, assess the health of individual specimens and replant as necessary. Replanted trees, especially those surrounding the Kahn-designed portions of the Institute, shall be identical to those species originally planted and identified on the 1965 Landscape Plan, and other landscaping shall use the same "palette" of species as that identified on the 1965 Landscape Plan, to the extent practicable given existing City regulations.

5.4-3 The final design for the Torrey East Building shall feature a ground-level, two-story transparent atrium space designed **to permit limited visibility along** the same axis as the courtyard of the original laboratory building, in accordance with the Architectural Design Guidelines.

The following measures would avoid or reduce potential impacts to Camp Callan-related historic-era archaeological resources on the north mesa to below a level of significance.

5.4-4 Prior to Permit Issuance

(A) Entitlements Plan Check

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

(B) Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.
3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

(a) 5.4-5 Prior to Start of Construction

(A) Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (¼ mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coastal 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 Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
  - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
  - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
  - b. The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule

to MMC through the RE indicating when and where monitoring will occur.

- b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

#### 5.4-6 During Construction

##### (A) The Monitor Shall Be Present During Grading/Excavation/Trenching

1. The Archaeological Monitor shall be present full-time during grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. The Native American monitor shall determine the extent of their presence during construction related activities based on the AME and provide that information to the PI and MMC. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered may reduce or increase the potential for resources to be present.

##### (B) Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery

and immediately notify the RE or BI, as appropriate.

2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

(C) Determination of Significance

1. The PI 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.
  - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
  - c. If resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

5.4-7 Night and/or Weekend Work

(A) If night and/or weekend work is included in the contract

1. When night and/or weekend 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 and/or

weekend work, the PI shall record the information on the CSV and submit to MMC via fax by 8AM of the next business day.

b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains.

c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.

d. The PI shall immediately contact MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

(B) If night and/or weekend 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.

5.4-8 Post-Construction

(A) Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring.
  - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
  - b. Recording Sites with State of California Department of Parks and Recreation  
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

(B) Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected

are cleaned and catalogued

2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
3. The cost for curation is the responsibility of the property owner.

(C) Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

(D) Final Monitoring Report(s)

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

The following measures would avoid or reduce potential impacts to unknown prehistoric archaeological resources on the project site to below a level of significance.

5.4-9 Prior to Permit Issuance



(A) Entitlements Plan Check

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

(B) Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.
3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

(b) 5.4-10 Prior to Start of Construction

(A) Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (¼ mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coastal 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 and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
  - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
  - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
  - b. The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program.

This request shall be based on relevant information such as review of final construction documents which indicate site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

5.4-11 During Construction

(A) The Monitor Shall Be Present During Grading/Excavation/Trenching

1. The Archaeological Monitor shall be present full-time during grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. The Native American monitor shall determine the extent of their presence during construction related activities based on the AME and provide that information to the PI and MMC. **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 (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered may reduce or increase the potential for resources to be present.

(B) Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.

3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

(C) Determination of Significance

1. The PI AND Native American Monitor shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in MM 5.4-11 below.
  - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
  - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
  - c. If resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

5.4-12 Discovery of Human Remains

If human remains are discovered, work shall halt in that area and the following procedures as 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, will determine the need for a field examination to determine the provenience.
3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

(C) If Human Remains ARE determined to be Native American

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with the California Public Resource and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
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 48 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.
- c. In order to protect these sites, the Landowner shall do one or more of the following:
  - (1) Record the site with the NAHC;
  - (2) Record an open space or conservation easement on the site;
  - (3) Record a document with the County.
- d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.

(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/landowner and the Museum of Man.

5.4-13 Night and/or Weekend Work

(A) If night and/or weekend work is included in the contract

1. When night and/or weekend 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 and/or weekend work, the PI shall record the information on the CSVN and submit to MMC via fax by 8AM of the next business day.
  - b. Discoveries  
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains.
  - c. Potentially Significant Discoveries  
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
  - d. The PI shall immediately contact MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

(B) If night and/or weekend 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.

5.4-14 Post-Construction

(A) Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring.
  - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
  - b. Recording Sites with State of California Department of Parks and Recreation  
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

(B) Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected



are cleaned and catalogued

2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
3. The cost for curation is the responsibility of the property owner.

(C) Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

(D) Final Monitoring Report(s)

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

**C. TRAFFIC AND CIRCULATION**

Mitigation for project impacts to the intersection of I-5/Genesee Avenue would involve payment of fair-share fees by the project applicant and others that would contribute funding toward planned intersection improvements. The improvements would replace the Genesee Avenue overpass at I-5,

install two additional lanes and dual left turn lanes along Genesee Avenue and make freeway ramp meter changes. Since the improvements to the I-5/Genesee intersection are not assured at this time, direct and cumulative impacts would remain significant and unmitigable until such improvements are constructed, despite the implementation of the following mitigation measures.

5.5-1 Prior to issuance of a certificate of occupancy on project buildings that would contribute new traffic, the project applicant shall contribute funds at a rate of \$1,000.00 per trip impacting the freeway, up to \$353,000.00 (see Table 9-9 in Appendix D), for regional improvements at the I-5/Genesee Avenue intersection, to the satisfaction of the City Engineer. This contribution shall be paid as certificate of occupancy permit(s) are issued during the phased project buildout.

5.5-2 The project applicant shall continue to participate in the current TDM shuttle arrangement. Prior to certificate of occupancy on buildings that would create new traffic, the applicant shall determine whether it will continue to participate in the current arrangement or begin to provide a private shuttle service for its employees between the project site and the regional transit centers. Regardless of which shuttle arrangement is chosen, the applicant shall provide transit pass subsidies for its employees and provide a kiosk or bulletin board on the campus displaying information on transit uses, carpooling, and other forms of ridesharing.

#### **D. NOISE**

The following construction noise control measures shall be incorporated into the contractor specifications and used to reduce temporary construction noise to below significant levels:

5.7-1 Prior to the commencement of construction, the construction contractor shall contact a qualified acoustician to prepare a construction noise control plan(s). The plan(s) shall evaluate noise levels based on actual sound levels and acoustic heights of equipment proposed for use. The plan(s) shall identify appropriate methods for achieving the 75 dB  $L_{eq}$  threshold averaged over 12 hours. Methods could include the use of noise barriers and/or operational adjustments.

5.7-2 Only equipment capable of performing necessary tasks with the lowest possible sound level and acoustic height shall be used.

5.7-3 All construction equipment shall be operated and maintained so as to minimize noise

generation. Equipment and vehicles shall be kept in good repair and fitted with manufacturer- recommended mufflers.

- 5.7-4 If deemed necessary by an acoustical consultant, shielding in the form of temporary barriers shall be provided for standard activity, and portable noise screens or enclosures shall be utilized for high-noise activities/with equipment. The noise barriers used must block line-of-sight between source and receiver, be constructed of solid material and be long enough to prevent sound from flanking around the end of the barrier.

## **E. PALEONTOLOGICAL RESOURCES**

The following measures would avoid or reduce potential impacts to paleontological resources below a level of significance.

### *5.10-1 Prior to Permit Issuance*

#### **A. Entitlements 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.

### 5.10-2 *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

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.

### 5.10-3 *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.

5.10-4 *Night and/or Weekend Work*

- A. If night and/or weekend work is included in the contract
  1. When night and/or weekend 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 and/or weekend work, The PI shall record the information on the CSVr and submit to MMC via fax by 8AM on the next business day.

- 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 on the next business day 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.

#### 5.10-5 *Post Construction*

- A. Preparation and Submittal of Draft Monitoring Report
- 1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines 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. 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.

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