

RESOLUTION NUMBER R- 305184

DATE OF FINAL PASSAGE JUL 28 2009

A RESOLUTION CERTIFYING THAT MITIGATED NEGATIVE DECLARATION NO. 157028 HAS BEEN COMPLETED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT [CEQA] AND THE STATE GUIDELINES AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM FOR THE ALVARADO APARTMENTS PROJECT.

WHEREAS, on October 3, 2008, Plymouth Health Investments, LLC, a Delaware limited liability company, Owner, and DMC-San Diego 2, L.P., a Delaware limited partnership, Applicant, submitted an application to the City of San Diego for a rezone, General Plan and College Area Community Plan amendment, tentative parcel map and planned development permit/site development permit for the Alvarado Apartments Project; and

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

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

WHEREAS, the issue was heard by the City Council on July 28, 2009; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 157028/SCH No. 2009041099; NOW, THEREFORE,


BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 157028/SCH No. 2009041099, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act [CEQA] (California Public Resources Code sections 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations sections 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 rezone, General Plan and College Area Community Plan amendment, tentative map, and planned development permit/site development permit for the Alvarado Apartments Project.

BE IT FURTHER RESOLVED, that the City Council finds that project revisions and the Mitigation Monitoring and Reporting Program, a copy of which is attached hereto as Exhibit A, 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, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, 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.

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: JAN I. GOLDSMITH, City Attorney

By   
Keith Bauerle  
Deputy City Attorney

KB:hm  
06/26/09  
10/14/09 COR.COPY  
Or.Dept:DSD  
R-2009-1318  
MMS #9645

## EXHIBIT A

### MITIGATION MONITORING AND REPORTING PROGRAM

Rezone No. 593504, General Plan and College Area Community Plan Amendment No. 593505, Tentative Parcel Map No. 593503, Planned Development Permit No. 572630 and Site Development Permit No. 658951

PROJECT NO. 157028

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 Mitigated Negative Declaration (Project No. 157028/SCH No 2009041099) shall be made conditions of the Rezone No. 593504, General Plan and College Area Community Plan Amendment No. 593505, Tentative Parcel Map No. 593503, Planned Development Permit No. 572630 and Site Development Permit No. 658951 as may be further described below.

#### MITIGATION, MONITORING AND REPORTING PROGRAM:

##### GENERAL REQUIREMENTS

1. Prior to issuance of any construction permit the Assistant Deputy Director (ADD) Environmental Designee of the Entitlements Division shall verify that Mitigation Measures **TRANSPORTATION/CIRCULATION, LAND USE/MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP), BIOLOGICAL RESOURCES (RAPTORS), HISTORICAL RESOURCES (ARCHAEOLOGY), PALEONTOLOGICAL RESOURCES, AIR QUALITY, AND UTILITIES (WATER)** have been included in 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 Consultant (Biologist 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.

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TRANSPORTATION/CIRCULATION

In order to avoid potential cumulative impacts to transportation/circulation, the following mitigation measures shall be implemented by the project applicant:

1. The applicant shall assure by permit and bond the construction of a signalized intersection on Alvarado Road at the project driveway, with a westbound left turn lane, one through westbound lane, one through and one right turn eastbound lanes, with one inbound and two outbound lanes for the north leg, appropriate pedestrian ramps at corners of the intersection, and a sidewalk on the north side of Alvarado Road connecting to the existing Trolley Station, satisfactory to the City Engineer.
2. The applicant shall pay \$318,000 (5.3% of a \$6,000,000 project) as a fair share mitigation for cumulative project impacts at the College Avenue/Alvarado Road/Canyon Crest Drive intersection, including a 1600 foot realignment of Alvarado Road, to the satisfaction of the City Engineer.
3. The applicant shall pay \$185,600 (5.8% of a \$3,200,000 project) as a fair share mitigation for cumulative project impacts to widen Alvarado Road west to College Avenue to a three lane Collector to the satisfaction of the City Engineer.
4. The applicant shall pay \$121,600 (3.8% of a \$3,200,000 project) as a fair share mitigation for cumulative project impacts to widen Alvarado Road east to 70th Street to a three lane Collector to the satisfaction of the City Engineer.
5. The applicant shall pay a total of \$152,400 (1.6% of a \$6,400,000 project) as a fair share mitigation for cumulative project impacts to widen College Avenue bridge over I-8 and (5% of a \$1,000,000) west bound ramp widening onto I-8 project to the satisfaction of the City Engineer.
6. The applicant shall provide a Transportation Demand Manager/Rideshare Coordinator to encourage alternative transportation programs and/or public transit use to the satisfaction of the Director of the Development Services Department.
7. The applicant shall provide an information newsletter to residents and tenants discussing Ride Link and other tools for car pooling, bicycling and alternative modes of transportation to the satisfaction of the Director of the Development Services Department.
8. The applicant shall provide an incentive program to encourage transit use for the project. For the first ten (10) years that Alvarado Apartments is open, a one time one month transit pass will be provided for each apartment that is leased for one year. Each apartment with a one year lease is eligible to receive the transit pass benefit, however the benefit is provided only at the option and at the specific request of the resident, to the satisfaction of the Director of the Development Services Department.

9. The applicant shall provide at least one "flex car" to the residents and tenants in the apartment complex, to be rented on as needed basis. After a 12 month test period, the applicant shall review the use and costs of the "flex car" and provide a memo to the Development Services Department as to its cost effectiveness, and a review of continuing the "flex car" program will be undertaken at that time, to the satisfaction of the Director of the Development Services Department.

LAND USE/MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP)

In order to avoid potential impacts to land use/MSCP, the following mitigation measures shall be implemented by the project applicant:

Prior to the issuance of any construction permits, the ADD Environmental Designee shall verify that all Multi-Habitat Planning Area (MHPA) boundaries and limits of disturbance have been delineated on all construction documents.

- A. Prior to the first pre-construction meeting, the Owner/Permittee shall provide a letter of verification to the Mitigation Monitoring Coordination Section stating that a qualified Biologist, as defined in the City of San Diego Biological Review References, has been retained to implement the Project's MSCP monitoring Program. The letter shall include the names and contact information of all persons involved in the Biological Monitoring of the project.
- B. At least thirty days prior to the pre-construction meeting, the qualified Biologist shall submit all required documentation to MMC, verifying that any special reports, maps, plans and time lines, such as but not limited to, revegetation plans, plant relocation requirements and timing, MSCP requirements, avian or other wildlife protocol surveys, impact avoidance areas or other such information has been completed and updated.
- C. The qualified biologist (project biologist) shall attend the first preconstruction meeting and discuss the projects biological monitoring program.
- D. In addition the following mitigation measures related to the MHPA Land Use Adjacency Guidelines shall be implemented:
  1. Prior to initiation of any construction-related grading, the construction foreman and/or project 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, as shown on approved Exhibit A, shall be defined with silt fencing or orange construction fencing and checked by the biological monitor before initiation of construction grading. All native plants or species of special concern, (i.e. the coast barrel cactus) as

identified in the biological technical report, shall be staked, flagged and avoided within Brush Management Zone 2.

3. Invasive non-native plant species shall not be introduced into areas adjacent to the MHPA. Landscape plans shall contain non-invasive native species adjacent to sensitive biological areas as shown on approved Exhibit A.
4. All lighting adjacent to the MHPA shall be shielded, unidirectional, low pressure sodium illumination (or similar) and directed away from preserve areas using appropriate placement and shields. If lighting adjacent to the MHPA is required for nighttime construction, it shall be directed away from the preserve and the tops of adjacent trees with potentially nesting raptors, using appropriate placement and shielding.
5. All construction activities (including staging areas and/or storage areas) shall be restricted to the development area as shown on the approved Exhibit A. No equipment maintenance shall be conducted within or near the adjacent open space and/or sensitive areas and shall be restricted to the development area as shown on the approved Exhibit A and shall not encroach into sensitive biological areas within either the open-space and/or MHPA areas. The project biologist 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.
6. Natural drainage patterns shall be maintained as much as possible during construction. Erosion control techniques, including the use of sandbags, hay bales, and/or the installation of sediment traps, shall be used to control erosion and deter drainage during construction activities into the adjacent open space. Drainage from all development areas adjacent to the MHPA shall be directed away from the MHPA, or if not possible, must not drain directly into the MHPA, but instead into sedimentation basins, grassy swales, and/or mechanical trapping devices as specified by the City Engineer.
7. No trash, oil, parking or other construction related activities shall be allowed outside the established limits of grading, as shown on approved Exhibit A. All construction related debris shall be removed off-site to an approved disposal facility.
8. Should construction occur during the breeding season of the coastal California gnatcatcher (March 1 through August 15) and least Bells vireo (March 15 through September 15) the following mitigation measures shall be required and implemented:

COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

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 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 coastal California gnatcatchers are present, then the following conditions must be met:
  - I. Between March 1 and August 15, no clearing, grubbing, or grading of occupied coastal California gnatcatcher habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a Qualified Biologist; and
  - II. Between March 1 and August 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of occupied gnatcatcher habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a Qualified Acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the City Manager at least two weeks prior to the commencement of construction activities. Prior to the commencement of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a Qualified Biologist; or
  - III. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB(A) hourly average at the edge of habitat occupied by the coastal California gnatcatcher. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring\* shall be conducted at the edge of the occupied habitat area to ensure that



noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the Qualified Acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (August 16).

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

B. If coastal California gnatcatchers are not detected during the protocol survey, the Qualified Biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary between March 1 and August 15 as follows:

I. If this evidence indicates the potential is high for coastal California gnatcatcher to be present based on historical records or site conditions, then condition A.III shall be adhered to as specified above.

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

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

Prior to the 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 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)]

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hourly average for the presence of the least bell's vireo. Surveys for this species shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife service within the breeding season prior to the commencement of construction. If the least Bell's vireo is present, then the following conditions must be met:

- I. Between March 15 and September 15, no clearing, grubbing, or grading of occupied least Bell's vireo habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; and
- II. Between March 15 and September 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 db(a) hourly average at the edge of occupied least Bell's vireo or habitat. An analysis showing that noise generated by construction activities would not exceed 60 db(a) hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the city manager at least two weeks prior to the commencement of construction activities. Prior to the commencement of any of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; or
- III. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 db(a) hourly average at the edge of habitat occupied by the least Bell's vireo. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring\* shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 db(a) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 16).

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

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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.

#### BIOLOGICAL RESOURCES (RAPTORS)

In order to avoid potential impacts to biological resources (raptors), the following mitigation measures shall be implemented by the project applicant:

- I. Prior to the first pre-construction meeting, the Owner/Permittee shall provide a letter of verification to the Mitigation Monitoring Coordination Section stating that a qualified Biologist, as defined in the City of San Diego Biological Review References, has been retained to implement the projects MSCP monitoring Program. The letter shall include the names and contact information of all persons involved in the Biological Monitoring of the project.
- II. At least thirty days prior to the pre-construction meeting, the qualified Biologist shall submit all required documentation to MMC, verifying that any special reports, maps, plans and time lines, such as but not limited to, revegetation plans, plant relocation requirements and timing, MSCP requirements, avian or other wildlife protocol surveys, impact avoidance areas or other such information has been completed and updated.
  - 1. If the site has a potential to support nests and nesting raptors are present during grading and/or construction activities, compliance with the Federal Migratory Bird Treaty Act/California Code Section 3503 would preclude the potential for direct impacts.
  - 2. If there is a potential for indirect noise impacts to nesting raptors, prior to any (demolition, grading, construction, but not limited to) within the development area during the raptor breeding season (February 1 through September 15) the biologist shall ensure that no raptors are nesting. If construction occurs during the raptor breeding season a preconstruction survey would be conducted and no construction would be allowed per applicable FESA, CESA and/or MSCP Conditions of Coverage. If no such specific conditions apply, no construction would be allowed

within 300 to 500 feet and/or appropriate noise buffer zone in consultation with the biologist and DSD of any identified nest(s) until the young fledge. Should the biologist determine that raptors are nesting, an active nest shall not be removed until after the breeding season.

3. No direct impacts to nesting raptors are permitted. If removal of any eucalyptus trees (or other trees with nests) within the development area is proposed during the raptor breeding season (February 1 through September 15) or breeding birds are observed prior to construction, the biologist shall ensure that no raptors are nesting in such trees. If construction is to occur during the raptor breeding season a preconstruction survey would be conducted and no construction would occur unless all applicable FESA, CESA and/or MSCP Conditions of Coverage are performed. If no such specific conditions apply, no construction would be allowed within 300 to 500 feet of any identified 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.

- III. Post Construction: Should clearing grubbing, grading, or other construction activities occur during the avian breeding season, the biologist/consultant shall submit two copies of the final construction monitoring reports to the MMC Section within 30-days of completion of construction activities.

#### HISTORICAL RESOURCES (ARCHAEOLOGY)

In order to avoid potential impacts to historical resources, the following mitigation measures shall be implemented by the project applicant:

- I. 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 would 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 (¼ 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.

B. *PI Shall Attend Preconstruction 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.  
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 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.
3. When Monitoring Would 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 would occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

### III. During Construction

#### A. *Monitor Shall be Present during Grading/Excavation/Trenching*

1. The 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 (CSV). The CSV's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

#### B. *Discovery Notification Process*

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

#### C. *Determination of Significance*

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

#### IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area and the following procedures 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.

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- 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.

V. 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 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.

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- 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.

VI. 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 paleontological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
  - b. Recording Sites with the State of California Parks and Recreation Department - 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 cultural 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 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.

#### **PALEONTOLOGICAL RESOURCES**

In order to avoid potential impacts to paleontological resources, the following mitigation measures shall be implemented by the project applicant:

I. Prior to Permit Issuance

A. *Land Development Review (LDR) Plan Check*

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

B. *Letters of Qualification have been submitted to ADD*

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.

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2. MMC would 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 Preconstruction 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 Would 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 would occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded

to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

### III. During Construction

#### A. *Monitor Shall be Present during Grading/Excavation/Trenching*

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
2. The monitor shall document field activity via the Consultant Site Visit Record (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 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 would 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 would be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

#### IV. 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.*

#### VI. 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 Verification from the curation institution.

#### AIR QUALITY

In order to reduce reactive organic gas emissions during construction the following mitigation measures shall be implemented by the project applicant:

1. Prior to issuance of grading or building permits by the City of San Diego, the project applicant shall implement and record on final grading and construction plans the condition that the VOC content of the exterior architectural coating shall have a VOC content no greater than 90 grams per liter and the VOC content of the interior architectural coating shall have a VOC content no greater than 50 grams per liter. In addition, the number of units painted shall be limited to 21 per day.

#### UTILITIES (WATER)

In order to offset the unanticipated increase in potable water demand, the following mitigation measures shall be conditions of the project:

1. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by executing a legally enforceable separate agreement with the Water Department, to retrofit the irrigation infrastructure at one or more public facilities to accept recycled water instead of potable water. This retrofit shall result in potable water savings of at least 73,966 gpd (82.8 AFY).
2. The Owner/Permittee shall design and construct all proposed buildings to utilize enhanced water conservation features such as Energy Star, WaterSense or equivalent water conservation appliances and enhanced water conservation fixtures, in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations.
3. The Owner/Permittee shall design and construct all proposed buildings to reduce water utilization by a minimum of 7.5% for the residential units and 5% for the commercial units, as described in the Water Supply Assessment, to the approval of the Director of Development Services. This will include the installation of Energy Star, WaterSense or equivalent water conservation appliances and enhanced water conservation fixtures.
4. Prior to the issuance of a Certificate of Occupancy, the Owner/Permittee shall demonstrate the installation of Energy Star, WaterSense or equivalent water conservation appliances and enhanced water conservation fixtures to reduce the water demand by a minimum of 7.5% for the residential units and 5% for the commercial units, as described in the Water Supply Assessment, to the approval of the Director of Development Services.

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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