

RESOLUTION NUMBER R- 305965

DATE OF FINAL PASSAGE JUN 29 2010

A RESOLUTION STATING FOR THE RECORD THAT THE CITY COUNCIL, AS RESPONSIBLE AGENCY, HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED IN THE BARRIO LOGAN REDEVELOPMENT PROJECT EIR NO. 90-0133 AND THE ADDENDUM THERETO IN DECIDING WHETHER TO APPROVE THE MERCADO DEL BARRIO PROJECT NO. 203874.

WHEREAS, pursuant to Resolution No. 1965 adopted on April 30, 1991, the Redevelopment Agency of the City of San Diego [Redevelopment Agency] acting as the “lead agency” for purposes of California Environmental Quality Act of 1970, California Public Resources Code Section 21000 *et seq.* [CEQA], certified Final Environmental Impact Report No. 90-0133 [1991 Final EIR], and adopted the Findings, the Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program [MMRP], related to the Barrio Logan Redevelopment Project; and

WHEREAS, on March 9, 2010, Shea Mercado, LLC, a California limited liability company, Applicant, submitted an application to the Development Services Department for Coastal Development Permit No. 723231, Planned Development Permit No. 723233, Site Development Permit No. 723237, Vesting Tentative Map No. 723238, and Easement Abandonment No. 723239 for the Mercado del Barrio Project;

WHEREAS, the 1991 Final EIR addressed the Mercado del Barrio Project site, which was analyzed for a mixed use commercial and residential development as part of the Mercado District; and

WHEREAS, upon review of the Mercado del Barrio Project, it was determined that the Project requires only minor technical revisions to the 1991 Final EIR and MMRP, and accordingly, Addendum to EIR No. 90-0133 was prepared and certified by the Redevelopment Agency on JUN 29 2010, and

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

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

WHEREAS, the issues were heard by the City Council of the City of San Diego on JUN 29 2010, ; and

WHEREAS, in connection with the consideration of the Mercado del Barrio Project, the City Council considered the issues discussed in the 1991 Final EIR along with the Addendum thereto;

NOW THEREFORE,

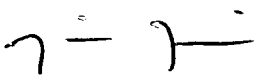
BE IT RESOLVED, by the City Council of the City of San Diego that it be, and it is hereby stated for the record, that the 1991 Final EIR and the Addendum thereto, including any comments received during the public review process, have been reviewed and considered by this Council, and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA section 21166 or CEQA Guidelines section 15162 warrant any subsequent EIR or negative declaration, and that the Addendum to the 1991 Final

EIR addresses the minor technical changes and additions that are necessary for approval of Coastal Development Permit No. 723231, Planned Development Permit No. 723233, Site Development Permit No. 723237, Vesting Tentative Map No. 723238, and Easement Abandonment No. 723239 for the Mercado del Barrio Project.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code, Section 21081.6, the City Council hereby adopts the project specific 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 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 Mercado Del Barrio project.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
\_\_\_\_\_  
Nina M. Fain  
Deputy City Attorney

NMF:js  
05/26/2010  
Or.Dept:DSD  
R-2010-862  
MMS#12275

ATTACHMENT: Exhibit A, Mitigation Monitoring and Reporting Program

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

COASTAL DEVELOPMENT PERMIT NO. 723231,  
PLANNED DEVELOPMENT PERMIT NO. 723233,  
SITE DEVELOPMENT PERMIT NO. 723237,  
VESTING TENTATIVE MAP NO. 723238, and  
EASEMENT ABANDONMENT NO. 723239  
MERCADO DEL BARRIO PROJECT NO. 203874

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Addendum No. 203874 to Environmental Impact Report (EIR) No. 90-0133/ SCH No. 90010287 shall be made conditions of Coastal Development Permit No. 723231, Planned Development Permit No. 723233, Site Development Permit No. 723237, Vesting Tentative Map No. 723238, and Easement Abandonment No. 723239, as may be further described below.

The Mercado Del Barrio project shall be required to comply with all mitigation measures outlined within the Mitigation, Monitoring and Reporting Program of the previously certified EIR No. 90-0133 and the project specific subsequent technical studies required. The following MMRP identifies measures which specifically apply to this project.

**A. GENERAL REQUIREMENTS – PART I Plan Check Phase (prior to permit issuance)**

1. Prior to the issuance of a Notice To Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Services Department (DSD) Director’s Environmental Designee (ED) shall review and approve all Construction Documents (CD), (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.
2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, “ENVIRONMENTAL/MITIGATION REQUIREMENTS.”
3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:

<http://www.sandiego.gov/development-services/industry/standtemp.shtml>

4. The **TITLE INDEX SHEET** must also show on which pages the “Environmental/Mitigation Requirements” notes are provided.
5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

**B. GENERAL REQUIREMENTS – PART II Post Plan Check (After permit issuance/Prior to start of construction)**

1. **PRE CONSTRUCTION MEETING IS REQUIRED TEN (10) WORKING DAYS PRIOR TO BEGINNING ANY WORK ON THIS PROJECT.** The PERMIT HOLDER/OWNER is responsible to arrange and perform this meeting by contacting the CITY RESIDENT ENGINEER (RE) of the Field Engineering Division and City staff from MITIGATION MONITORING COORDINATION (MMC). Attendees must also include the Permit holder’s Representative(s), Job Site Superintendent and the following consultants:

*Qualified Acoustician*  
*Qualified Historical Resources Monitor*  
*Qualified Paleontological Monitor*

**Note: Failure of all responsible Permit Holder’s representatives and consultants to attend shall require an additional meeting with all parties present.**

**CONTACT INFORMATION:**

- a) The PRIMARY POINT OF CONTACT is the RE at the **Field Engineering Division – 858-627-3200**
  - b) For Clarification of ENVIRONMENTAL REQUIREMENTS, applicant t is also required to call RE and MMC at **858-627-3360**
2. **MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) Number 203874 and /or Environmental Document Number 203874, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD’s Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e. to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc

**Note: Permit Holder’s Representatives must alert RE and MMC if there are any discrepancies in the plans or notes, or any changes due to field conditions. All conflicts must be approved by RE and MMC BEFORE the work is performed.**

3. **OTHER AGENCY REQUIREMENTS:** Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution or other documentation issued by the responsible agency.

*NOT APPLICABLE*

4. **MONITORING EXHIBITS**  
 All consultants are required to submit , to RE and MMC, a monitoring exhibit on a 11x17 reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline’s work, and notes indicating when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.

**NOTE: Surety and Cost Recovery – When deemed necessary by the Development Services Director or City Manager, additional surety instruments or bonds from the private Permit Holder may be required to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.**

5. **OTHER SUBMITTALS AND INSPECTIONS:**

The Permit Holder/Owner’s representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

**Document Submittal/Inspection Checklist**

<i>Issue Area</i>	<i>Document submittal</i>	<i>Assoc Inspection/Approvals/Notes</i>
General	Consultant Qualification Letters	Prior to Pre-construction Meeting
General	Consultant Const. Monitoring Exhibits	Prior to or at the Pre-Construction meeting
Paleontology	Paleontology Reports	Paleontology site observation
Archeology	Archeology Reports	Archaeology/Historic site observation
Noise	Acoustical Reports	Noise mitigation features inspection
Traffic	Traffic Reports	Traffic features site observation
Waste Management	Waste Management Reports	Waste management inspections
Bond Release	Request for Bond Release letter	Final MMRP inspections prior to Bond

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

Transportation/Traffic Circulation

- I. Near Term
  - a. Prior to the issuance of any building permit, the applicant shall install a "right-turn only-weekdays 4:00 PM to 6:00 PM" sign facing the northbound approach at the intersection of Logan Avenue and I-5 southbound on-ramp, satisfactory to the City Engineer.
  
- II. Horizon Year
  - a. Prior to the issuance of any building permit, the applicant shall install a "right-turn only-weekdays 4:00 PM to 6:00 PM" sign facing the northbound approach at the intersection of Logan Avenue and I-5 southbound on-ramp, satisfactory to the City Engineer. **This MMRP condition will be completed in the Near Term.**
  
  - b. Prior to the issuance of any building permit the applicant shall pay its fair share contribution (16%) towards future restriping of Cesar E. Chavez Parkway between Logan Avenue and Kearny Avenue to add a second northbound left turn lane at the intersection of Cesar E. Chavez Parkway and Kearny Avenue, change the northbound left turn phasing to protective instead of a split phasing for northbound/southbound movement, and provide signal modifications at this intersection, satisfactory to the City Engineer.
  
  - c. Prior to the issuance of any building permit the applicant shall pay its fair share contribution (5.7%) towards future installation of a second eastbound left turn lane at the intersection of Cesar E. Chavez Parkway and Harbor Drive by modifying the raised median, striping, and signage on Harbor Drive and providing signal modifications at this intersection, satisfactory to the City Engineer.

NOISE

In order to avoid potential direct interior noise impacts, the following mitigation measures shall be implemented by the project applicant:

- I. Prior to Permit Issuance – Plan Check
  - A. Prior to issuance of the building permit, the Permit Holder shall incorporate the requirements for environmental noise mitigation on the appropriate construction documents as described in the (*Exterior Noise Analysis Report – Mercado Del barrio, San Diego, Ca, prepared by Kimley-Horn and Associates, Inc., dated March 29, 2010*) report.

B. Prior to issuance of the building permit, the Assistant Deputy Director (ADD) Environmental designee shall verify the following sound attenuation measures for all patios and balconies on Building "C" per Recommended Building "C" Balcony Barrier Heights (Table 1) and Exterior Noise Mitigation (Figure 1) have been incorporated into the design of the development to ensure that exterior noise levels are below 65 dBA CNEL. The locations of the sound barriers referenced in Table 14 and as shown on Figure 6, are relative to the finished floor elevation of the balconies. The sound barriers must be solid in construction, with no holes or gaps through or below the barriers. To preserve a view, glass or Plexiglass with a minimum density of 3.5 lbs/ft<sup>2</sup> may be used.

**TABLE 1  
RECOMMENDED BUILDING "C" BALCONY BARRIER HEIGHTS  
MITIGATION MEASURES**

Side	Section	Floor	Barrier Height	Side	Section	Floor	Barrier Height
South	Entire façade	2	5 ft	East	Middle section	3	5.5 ft
South	Entire façade	3	4.5 ft	East	Middle section	4	5 ft
South	Entire façade	4	4 ft	East	Southern section	2	6 ft
North	Entire façade	2	3 ft	East	Southern section	3	5.5 ft
North	Entire façade	3	3 ft	East	Southern section	4	5 ft
North	Entire section	4	3 ft	West	Northern section	2	4.5 ft
East	Northern section	2	5 ft	West	Northern section	3	4.5 ft
East	Northern section	3	4.5 ft	West	Northern section	4	4 ft
East	Northern section	4	4 ft	West	Southern section	2	5 ft
East	Northern section	2	5.5 ft	West	Southern section	3	4.5 ft

**NOTES:**

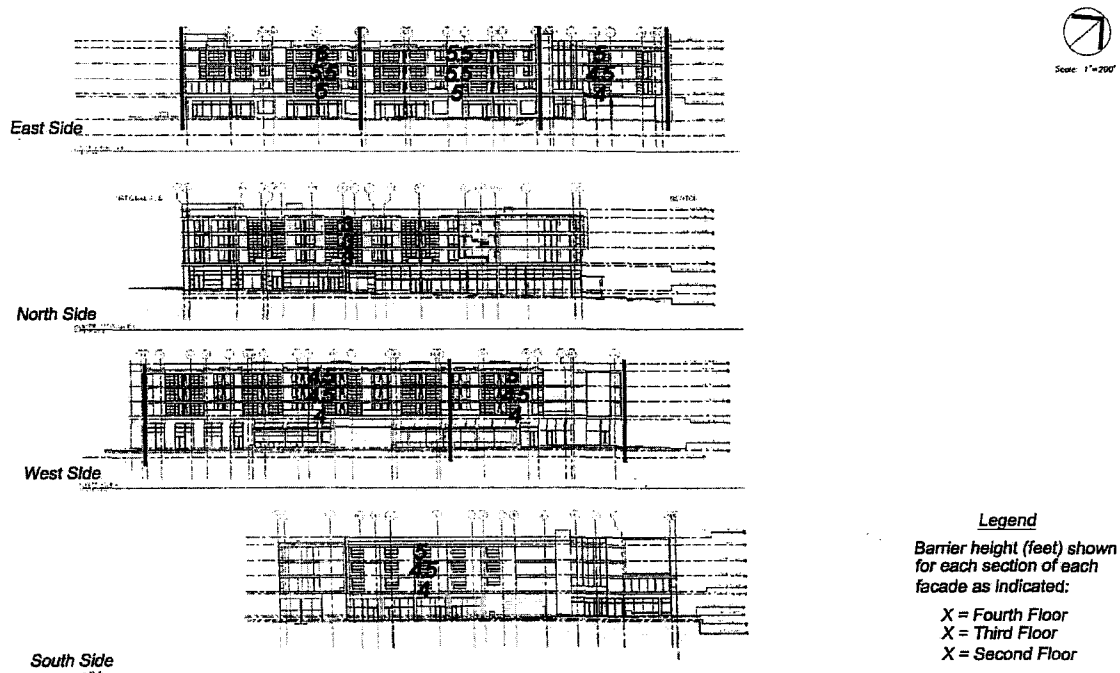
1. No patios or balconies exist on the ground floor.
2. Please refer to Figure 1, Exterior Noise Mitigation of approved acoustical report for graphical representation.
3. East side northern section extends from Match Line A to Match Line G.
4. East side middle section extends from Match line G to Match Line I.
5. East side southern section extends from Match Line I to Match Line Q.
6. West side northern section extends from Match Line A to Match Line L.
7. West side southern section extends from Match Line L to Match Line Q.



- C. Prior to issuance of occupancy the building permit, the Assistant Deputy Director (ADD) Environmental designee shall verify the following sound attenuation measures for all patios and balconies on Building "C" per Recommended Building "C" Balcony Barrier Heights Table 1 have been incorporated into the design of the development to ensure that interior noise levels are below 65 dBA CNEL:

**FIGURE 1**

*Mercado del Barrio*



 Kimley-Horn and Associates, Inc.

*Exterior Noise Mitigation*

II. Post Construction – Prior to Final Inspection

- A. The Permit Holder shall submit one copy of the final Acoustical Analysis with construction documents to the BI, and one copy to MMC. MMC to verify the sound attenuation barrier has been constructed in accordance with the Construction documents.

## HISTORICAL RESOURCES (CULTURAL RESOURCES/ARCHAEOLOGY)

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

### **I. Prior to Permit Issuance**

#### **A. Entitlements Plan Check**

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, 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.

### **II. Prior to Start of Construction**

#### **A. Verification of Records Search**

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the 1/4 mile radius.

#### **B. PI Shall Attend Precon Meetings**

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist 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.

### III. During Construction

#### A. Monitor(s) 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 such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.**

2. 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.
  3. The monitor shall document field activity via the Consultant Site Visit Record (CSVV). The CSVV'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.
- 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 Section IV below.
    - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
    - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
    - c. If resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

#### IV. Discovery of Human Remains

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

**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 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.

**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 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 WOULD ALSO REQUIRE THE INCLUSION OF ALL PRIOR ARCHAEOLOGICAL WORK CONDUCTED WHERE MATERIALS WERE COLLECTED IN 1996 AND 2003 BY BFS. REFER TO HISTORICAL RESOURCES (CULTURAL RESOURCES/CURATION AND FINAL REPORT PREPARATION OF PREVIOUS ARCHAEOLOGICAL WORK CONDUCTED MMRP CONIDTION).** 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.

**HISTORICAL RESOURCES (CULTURAL RESOURCES/CURATION AND FINAL REPORT PREPARATION OF PREVIOUS ARCHAEOLOGICAL WORK CONDUCTED)**

Prior to issuance of the Notice of Completion and/or release of the Performance Bond for grading, the applicant shall provide the verification as outlined within Historical Resources (archaeology) Monitoring MMRP Sections V.C and V.D to MMC that the following two mitigation measures have been satisfied:

1. All artifacts recovered from the previously completed archaeological excavations at this project by BFSa since 1996 must be subjected to standard historic artifact laboratory analysis, cataloging, and preservation/curation efforts. Artifacts recovered from the project area should be prepared for permanent curation at the San Diego Archaeological Center. This process shall include those historic artifacts recovered from the two cisterns in 1996 and the field work conducted in 2003 currently stored at the offices of BFSa. The size of the curated collection shall be determined in consultation between the City and the consulting qualified archaeologist.
2. A comprehensive report shall be prepared that incorporates all work conducted since 1996 that includes fieldwork, laboratory analysis, and monitoring efforts conducted for the mitigation program. A technical report shall focus on the presentation of data and the discussion of the research questions appropriate for this location. Historic research shall be conducted to expand information regarding the residents of the lots where materials have been found and the history of the neighborhood. Each of the features discovered shall be registered at the South Coastal Information Center, as required per the City of San Diego Historical Resources Guidelines.



## PALEONTOLOGICAL RESOURCES

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

### **I. Prior to Permit Issuance**

#### **A. Entitlements Plan Check**

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

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

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

### **II. Prior to Start of Construction**

#### **A. Verification of Records Search**

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

#### **B. PI Shall Attend Precon Meetings**

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.

- a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored  
Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

### III. During Construction

#### A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.**
2. 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.
3. 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.

**B. Discovery Notification Process**

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

**C. Determination of Significance**

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

**IV. Night 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.

**V. 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.

**HEALTH AND PUBLIC SAFETY (RISK OF UPSET)**

Prior to the issuance of the grading permit, the applicant shall provide verification, in letter form, to MMC that the County of San Diego, Department of Environmental Health has reviewed and approved the proposed soils management plan for the treatment and disposal of contaminated soils that may be encountered during grading activities for the project.