

RESOLUTION NUMBER R- 305968

DATE OF FINAL PASSAGE JUN 29 2010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO DENYING THE APPEAL OF THE PLANNING COMMISSION'S ENVIRONMENTAL DETERMINATION AND AS LEAD AGENCY, CERTIFYING MITIGATED NEGATIVE DECLARATION NUMBER 155821, AND ADOPTING THE MITIGATION, MONITORING AND REPORTING PROGRAM PREPARED FOR THE PALM AVENUE CARWASH (OTAY MESA-NESTOR COMMUNITY PLAN AREA, DISTRICT 8) – PROJECT NO. 155821.

WHEREAS, on June 5, 2008, Mark Kravis submitted an application to the Development Services Department for a Coastal Development Permit and Site Development Permit for the Palm Avenue Carwash [Project]; and

WHEREAS, on March 24, 2010, the Hearing Officer certified Mitigated Negative Declaration No. 155821 and approved Coastal Development Permit No. 554575 and Site Development Permit No. 730066; and

WHEREAS, the Hearing Officer's decision was appealed to the Planning Commission of the City of San Diego; and

WHEREAS, on May 20, 2010, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 554575 and Site Development Permit No. 730066 and Mitigated Negative Declaration No. 155821, and pursuant to Resolution No. PC-4591, voted to deny the appeal and uphold the Hearing Officer's decision; and

WHEREAS, in accordance with Public Resources Code Section 21151, Timothy Carmel appealed the Planning Commission decision to deny the appeal and uphold the Hearing Officer's decision to approve the Mitigated Negative Declaration to the Council of the City of San Diego; and

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

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

WHEREAS, the matter was set for public hearing on June 29, 2010, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it is hereby certified that Mitigated Negative Declaration No. 155821, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administration Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City Council in connection with the approval of the land use actions for the Palm Avenue Car Wash; and

BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration, a copy of which is attached hereto and incorporated by reference, is hereby approved; and

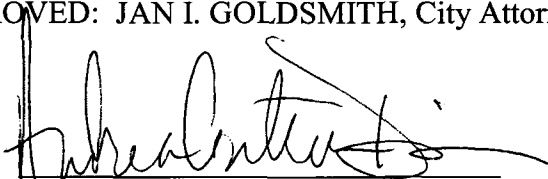
BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code, Section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference; and

BE IT FURTHER RESOLVED, that the decision of the Planning Commission is sustained, and the appeal of Timothy Carmel is denied; and

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



Andrea Contreras Dixon  
Deputy City Attorney

ACD:cw  
06/30/10  
Or.Dept:DSD  
MMS: #12478

ATTACHMENT: Exhibit A, Mitigation Monitoring and Reporting Program

**EXHIBIT A**

**MITIGATION MONITORING AND REPORTING PROGRAM  
PALM AVENUE CAR WASH  
COASTAL DEVELOPMENT PERMIT AND SITE DEVELOPMENT PERMIT  
PROJECT NO. 155821**

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. 155821) shall be made conditions of Coastal Development Permit and Site Development Permit as may be further described below.

**GENERAL REQUIREMENTS – PART I**

**A. 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. 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 project *applicants* 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.

## GENERAL REQUIREMENTS – PART II

### B. 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 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:

Biologist, Archaeologist

**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, it is also required to call **RE and MC at 858-627-3360**
- 2. MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) #155821 and /or Environmental Document # 155821, 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.

**Coastal Development Permit**

**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, they may require additional surety instruments or bonds from the Permit Holder 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’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><b>Issue Area</b></i>	<i><b>Document submittal</b></i>	<i><b>Assoc Inspection/Approvals/Notes</b></i>
General	Consultant Qualification Letters	Pre-construction Meeting
Land Use/Biology	Biologist Limit of Work Verification	Limit of Work inspection
Geology	As Graded Soils Report	Geo-technical/fault inspection
Archeology	Archeology Reports	Archaeology/Historic site observation
Noise	Acoustical Reports	Noise mitigation features inspection
Land Use	Land Use Adjacency issues CSVs	Land Use Adjacency issue site observations
Bond Release	Request for Bond Release letter	Final MMRP inspections prior to Bond Release Letter

**SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS –  
Post Plan Check Phase (after permit issuance)**

The environmental mitigation measures listed above shall be shown on the construction plans or referenced under the heading, "Environmental Requirements."

**Land Use (MSCP/MHPA)**  
(Biologist Qualification and Construction Monitoring)

I. Prior to Preconstruction meeting:

- A. The owner/permittee shall provide a letter to the City's Mitigation Monitoring Coordination (MMC) section stating that a qualified biologist, as defined in the City of San Diego's Biological Review References, has been retained to implement the project's biological monitoring program. The letter shall include the names and contact information of all persons involved in the biological monitoring of the project.
- B. The Biologist shall submit required documentation to MMC verifying that any special reports, maps, plans, and timelines; 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.

II. Preconstruction Meeting:

- A. The Project biologist shall attend the Preconstruction meeting and discuss the project's biological monitoring program.
- B. The project biologist shall submit a biological construction monitoring exhibit (BCME) (site plan reduced to 11X17) describing the projects biological monitoring program and delineating the location and method of installation of the orange construction fencing to be installed at the limits of disturbance adjacent to any sensitive biological resources as shown on the project's approved construction documents. The exhibit shall also contain a biological monitoring schedule.

III. Prior to Construction:

- A. The project biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance adjacent to sensitive biological habitats as shown on the BCME and approved construction documents.

IV. During Construction:

- A. The project biologist shall monitor construction activities as described on the BCME and approved construction documents to ensure that construction activities do not encroach into biologically sensitive areas beyond the approved limits of disturbance.

V. Post Construction:

- A. The project biologist shall submit a final construction monitoring report to the MMC section within 30 days of construction completion. The report shall address all

biological monitoring requirements described on the BCME and approved construction documents to the satisfaction of MMC.

**Land Use (MSCP/MHPA)**

- I. The qualified biologist shall verify that all construction taking place within or adjacent to the Multiple Habitat Planning Area (MHPA) is consistent with the Multiple Species Conservation Program (MSCP) Land Use Adjacency Guidelines including:
  - A. **Drainage/Toxics:**  
No Direct drainage into the MHPA shall occur during or after construction. The project biologist shall verify that filtration devices, swales and/or detention basins that drain into the MHPA are functioning properly during construction, and that permanent maintenance after construction is addressed.
  - B. **Lighting:**  
All lighting adjacent to the MHPA shall be directed away from preserve areas using appropriate placement and shielding. In addition, the required 4-foot high solid wood fence along the eastern edge of the property would shield the MHPA from automobile headlights.
  - C. **Invasives:**  
No invasive plant material shall be utilized in or adjacent to the MHPA. For plantings within the MHPA, all plant material must be native.
  - D. **Barriers:**  
New development adjacent to the MHPA is required to provide barriers along the MHPA boundaries to direct public access to appropriate locations, to reduce domestic animal predation, to keep wildlife in the preserve, and to provide adequate noise reduction in the preserve. Barriers may include, but are not limited to: fencing (6ft. vinyl coated chain link or equivalent), walls, rocks/boulders, vegetated buffers, and signage.
  - E. **Grading / Land Development:**  
For projects within or adjacent to the MHPA, all manufactured slopes associated with site development shall be included within the development footprint.
  - F. **Brush Management:**  
New development adjacent to the MHPA must be set back from the MHPA to provide required Brush Management Zone 1 area (Code Sec. 142.0412) on the building pad outside of the MHPA. Zone 2 may be located within the MHPA provided the Zone 2 management will be the responsibility of an HOA or other private entity.



## **HISTORICAL RESOURCES (ARCHAEOLOGY)**

### **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 ¼ mile radius.

**B. PI Shall Attend Precon Meetings**

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
  - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
  - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
  - b. The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

**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 (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.

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 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.

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 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.

## NOISE

The applicant shall mitigate exterior noise impacts for the proposed project as follows:

- I. Prior to Permit Issuance – Plan Check
- A. Prior to issuance of the bldg permit, the Permit Holder shall incorporate the requirements for environmental noise mitigation on the appropriate construction documents as described in the *Acoustical Analysis and Design for the Proposed Palm Avenue Car Wash at 1440 Palm Avenue in San Diego, California*”, by Dr. Penzes & Associates, June 18, 2009 report.

Prior to issuance of the building permit, the Assistant Deputy Director (ADD) Environmental designee shall verify the following sound attenuation measures have been incorporated into the design of the proposed development to reduce noise levels to below 60 dB CNEL:

1. A 4-foot high noise wall shall be constructed along the proposed retaining wall at the east property line to reduce the noise levels of the car wash blowers to less than the required 60 dba in CNEL noise limit within the Salt Pond Habitat. It shall be constructed of solid material (concrete, masonry, etc.) exhibiting no holes, gaps, or other openings in the final construction. The length of the sound wall shall extend from the south property line to the middle of the building. The sound wall cannot be constructed of wood.



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.
- B. MMC to verify the sound attenuation barrier has been constructed in accordance with the Construction documents.

Place the following language on the appropriate construction documents:

The noise study was conducted using as a baseline the “Proto-Vest, Inc. *Windshear* 30 HP Dryer/Blower with the *Windshear* Model Silencer Package. If another type of Dyer/Blower is proposed, it shall be at or below the level of noise produced with the baseline studied Dryer/Blower and documentation shall be submitted that demonstrates compliance with the evaluated model.

Even with the required Noise wall, the noise generated by the proposed Dryer/Blower will be above the required night time noise limit of the adjacent Salt Pond Habitat. Therefore the car wash shall only operate between the hours of 7 AM and 10 PM.

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.