

RESOLUTION NUMBER R- 306729

DATE OF FINAL PASSAGE MAR 29 2011

A RESOLUTION CERTIFYING MITIGATED NEGATIVE DECLARATION NO. 167252; FINDING THAT THE PROJECT REVISIONS NOW MITIGATE POTENTIALLY SIGNIFICANT EFFECTS ON THE ENVIRONMENT PREVIOUSLY IDENTIFIED IN THE INITIAL STUDY; AND ADOPTING THE MITIGATION, MONITORING AND REPORTING PROGRAM FOR GABLES CARMEL VALLEY PROJECT, PROJECT NO. 167252.

WHEREAS, on October 31, 2009, Lion Gables Realty Limited Partnership, a Delaware Limited Partnership submitted an application to the Development Services Department for a Rezone; Carmel Valley Neighborhood 8 Precise Plan and Local Coastal Program Amendment; Vesting Tentative Map; Planned Development Permit, Site Development Permit, Coastal Development Permit and MHPA Boundary Line Adjustment for the Gables Carmel Valley 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, the issue was heard by the City Council on March 29, 2011; 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;

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration LDR No. 167252; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration LDR No. 167252, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the 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 Rezone; Carmel Valley Neighborhood 8 Precise Plan and Local Coastal Program Amendment; Vesting Tentative Map; Planned Development Permit, Site Development Permit, Coastal Development Permit and MHPA Boundary Line Adjustment for the Gables Carmel Valley project.

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 on file in the office of the City Clerk, 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, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:als
3/07/2011
Or.Dept:DSD
PL#2011-05875

ATTACHMENT: Exhibit A, Mitigation Monitoring and Reporting Program

EXHIBIT A
MITIGATION MONITORING AND REPORTING PROGRAM

**PLANNED DEVELOPMENT PERMIT NO. 601111, SITE DEVELOPMENT
PERMIT NO. 601110, COASTAL DEVELOPMENT PERMIT NO. 652351 AND
MHPA BOUNDARY LINE ADJUSTMENT NO. 830190
GABLES CARMEL VALLEY - Project No. 167252**

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.167252) shall be made conditions of Planned Development Permit No. 601111, Site Development Permit No. 601110, Coastal Development Permit No. 652351 and MHPA Boundary Line Adjustment No. 830190 as may be further described below.

MITIGATION, MONITORING AND REPORTING PROGRAM: To ensure that site development would avoid significant environmental impacts, a Mitigation, Monitoring, and Reporting Program (MMRP) is required. Compliance with the mitigation measures shall be the responsibility of the applicant. The mitigation measures are described below.

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 Biologist
Qualified Acoustician
Qualified Paleontologist

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 MMC at 858-627-3360**
2. **MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) 167252, 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 for this project.

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

[List all and only project specific required verification documents and related inspections table below]

<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
Biology	Biologist Limit of Work	Limit of Work Inspection

	Verification	
Paleontology	Paleontology Reports	Paleontology Site Observation
Noise	Noise Reports	Prior to Certificate of Occupancy, Noise Mitigation Feature Inspection
Bond Release	Request for Bond Release Letter	Final MMRP Inspections prior to Bond Release Letter

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

BIOLOGICAL RESOURCES

Biology – General

Prior to Permit Issuance (during DSD, Entitlements Division Plan Check) the Permit Holder shall:

1. Submit Landscape Construction Documents (LCD) “including planting and irrigation plans, details and specifications” to the Development Services Department (DSD) for review and approval. The LCD shall be in conformance with the approved Exhibit ‘A’ for the Gables Carmel Valley Project and the Conceptual Habitat Restoration/Revegetation and Monitoring Plan for the Gables Carmel Valley Project (Dudek, September 2010).
2. Direct the Project Biologist (PB) to identify and adequately document all pertinent information concerning the Biological monitoring program goals and requirements on the LCD. This information shall include but not be limited to: Each type of habitat, protection of adjacent habitat (show and identify existing vegetation to remain), erosion and sediment control, inspection schedule, document submittals, reporting schedule, tables, graphics, notes, etc.
3. Shall provide verification to MMC that the required Covenant of Easement has been recorded on the deed.
4. Show, on the LCD, all Brush management Zones within 100 feet of the boundaries of any sensitive biological resource.

Prior to Start of Construction (at Preconstruction Meeting (Pre-Con)), the Permit Holder shall:

1. 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 biology Guidelines and references, has been retained to implement the project’s biological monitoring program. This letter shall include the

names and contact information of all persons involved in the biological monitoring program.

2. Direct the PB to submit required documentation to MMC verifying that any special reports, maps, plans, and timelines, such as but not limited to: MSCP requirements; avian or other wildlife protocol surveys; impact avoidance areas, plant relocation; or any other such information has been adequately completed and updated.
3. Direct the PB to submit a Biological Construction Monitoring Exhibit (BCME) using a reduced (11x17) site plan/planting plan which shows the existing vegetation to remain and be protected. This exhibit shall describe the projects biological monitoring program and delineating the method of installation of the orange construction fencing to be installed at the Limit of Work (disturbance) adjacent to any sensitive biological resources as shown and identified on the approved LCD. The exhibit shall also contain a biological monitoring schedule.
4. Direct the PB to attend the Pre con Meeting and discuss the requirements of the LCD and the Biological Construction Monitoring Exhibit (BCME). The Project Biologist shall also attend any other grading/excavation related meetings to make comments and/or suggestions concerning the LCD.

During Construction/Grading/Excavation the Permit Holder shall:

1. Direct the PB to supervise the placement of the orange construction fence, or City approved equivalent at the approved Limits of Work, adjacent to any sensitive biological resource, as shown on the approved LCD/BCME. The PB shall provide a letter to RE/MMC verifying that the approved Limits of Work have been surveyed, staked, and that the construction fence has been installed properly prior to the start of construction activities.
2. All construction activities (including staging areas) shall be restricted to the development area as shown on the approved Exhibit A. 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.
3. Direct the PB to document all biology related field activity via the Consultant Site Visit Record Forms (CSVR) per instructions on the form.

During Post Construction the Permit Holder shall ensure that a Biological Discovery /Disturbance Notification Process is carried out and shall:

1. Direct the PB to coordinate with the contractor to temporarily divert construction in the area of the discovery/disturbance and immediately notify

the RE/MMC by telephone, of the nature and extent of the discovery/ disturbance and recommend the method of additional protection of the area, such as fencing and appropriate construction Best Management Practices (BMP's). After obtaining concurrence with RE/MMC, the PB shall supervise the installation of the approved protection and BMPs. The PB shall also submit written documentation of the discovery /disturbance to RE/MMC within 24 hours by email with photos of the resource in context (show adjacent vegetation).

2. Direct the PB to evaluate the discovery/disturbance and submit a detailed biological assessment (with adequate photo documentation) and recommendations in a letter report to RE/MMC to obtain concurrence and formulate a plan of action for appropriate preservation/restoration. MMC shall review the letter report and provide the RE with MMC's recommendations and procedures, which can include fines, fees, and supplemental mitigation costs.

During Post Construction the Permit Holder shall:

1. Direct the PB to evaluate success of the mitigation effort and prepare a Final General Biological Construction Monitoring Report to MMC within 30 days of the completion of construction activity that has the potential to impact the sensitive biological resource. The report shall address the general biological monitoring program requirements described on the LCD/BCME to the satisfaction of MMC.

Habitat Mitigation – Ensure Prior to Permit Issuance (Entitlements Division Plan Check)

1. Prior to the issuance of any notice to proceed (NTP) or issuance for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, whichever is applicable (and whichever comes first), the ADD environmental designee shall verify that the applicant has provided record that mitigation for direct impacts to 0.27 acres of southern maritime chaparral (SMC) has occurred on-site at ratios per Table 1 over 0.37 acres. The current proposal is that a total of 1.09 acres of existing SMC would be set aside within a larger 2.09 acre (Lot C) on-site covenant of easement area for native open space within the MHPA (so it remains biologically viable).
2. The ADD environmental designee shall also verify that the requirements of mitigation for direct impacts (per the City's Environmentally Sensitive Lands (ESL) Ordinance) shall be a 0.37 acre area of SMC, indicated within the larger required 2.09 acre covenant of easement area on the appropriate landscape construction documents. The landscape construction documents and specifications must be found to be in conformance with "Exhibit A" for the Gables Carmel Valley discretionary project (PTS No. 167252). The

mitigation area and CE area shall be shown to the satisfaction of the Assistant Deputy Director (ADD) Environmental Designee (per Table 1 (below)).

**TABLE 1
HABITAT-IMPACTS- MITIGATION FOR OUR GABLES CARMEL VALLEY
BIOLOGICAL RESOURCES**

Vegetation Communities On Site Which Require Mitigation	Habitat On-Site	Habitat Impacted for Gables	Habitat Impacted on Gables and Creekside to enable Creekside Design	Mitigation Ratio (based on ESL Guidelines)	Mitigation Acreage Required	Areas to be placed in Covenant of Easement (CE) (Lot C).
Southern Maritime Chaparral – (SMC -Tier I	1.19 acres (includes 0.10 ac area graded for Creekside)	0 acres	0.27 acre (0.10 acres on Gables Lot A, 1 and C and 0.17 acres on Creekside)	0.10 ac @2:1 Impact inside MHPA, Mitigation Inside MHPA 0.17 ac @1:1 Impact outside MHPA, Mitigation Inside MHPA	0.37 acres (0.20 + 0.17ac)	1.98 acres (1.09 preserved existing SMC +0.89 acres SMC to be restored)
Non-native grassland	0.11 acres	0 acres	0 acres	N/A	N/A	0.11 acres
Totals	1.30 acres	0	0.27acres	See above	0.37 acres	2.09 acres

3. Prior to the issuance of any notice to proceed (NTP) or issuance for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, whichever is applicable (and whichever comes first), the ADD environmental designee shall verify that the applicant has provided the following language for “Nesting Bird Mitigation” under “Environmental Requirements” on all construction documents:

Nesting Bird Mitigation – Ensure Prior to Permit Issuance (Entitlements Division Plan Check)

1. If project grading/brush management is proposed in or adjacent to native habitat during the typical bird breeding season (i.e. Feb. 1-Sept. 15), or an active nest is noted, the project biologist shall conduct a pregrading survey for active nests in the development area and within 300 feet of it, and submit a letter report to MMC prior to the preconstruction meeting.
 - A. If active nests are detected, or considered likely, the report shall include mitigation in conformance with the City's Biology Guidelines and applicable State and Federal Law (i.e. appropriate follow up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) to the satisfaction of the Assistant Deputy Director (ADD) of the Entitlements Division. Mitigation requirements determined by the project biologist and the ADD shall be incorporated into the project's Biological Construction Monitoring Exhibit (BCME) and monitoring results incorporated in to the final biological construction monitoring report.
 - B. If no nesting birds are detected per "A" above, mitigation under "A" is not required.

Revegetation / Restoration -Ensure Prior to Permit Issuance (Entitlements Division Plan Check)

Prior to Permit Issuance the Permit Holder shall:

1. Direct the Project Biologist (PB) to identify and adequately document all pertinent information from the approved conceptual revegetation/restoration plan - program goals and requirements (Conceptual Habitat Restoration/Revegetation and Monitoring Plan for the Gables Carmel Valley Project (Dudek, September 2010)) on the landscape construction documents (LCDs) and submit to the City's Development Services Review Sections (Environmental, Landscape, Permits, etc.) This project is also in & adjacent to MHPA and approval from MSCP Staff is also required. This information shall include but not be limited to: Each type of habitat, plant/seed palettes, timing of installation, plant installation specifications, method of watering, protection of adjacent habitat (show and identify existing vegetation to remain) , erosion and sediment control, performance/success criteria, inspection schedule, document submittals, reporting schedule, tables, graphics, notes, and conformance check with the approved Dudek document listed above and the "Exhibit A" documentation associated with the Discretionary permit.

2. Direct the PB to provide, on the LCD, a table showing types of each habitat impacted and how it is to be restored and or enhanced along with the corresponding acreage and/or total number of plants being replaced as well as specific success criteria for each type of habitat and each reporting period
3. Direct the PB to ensure the LCD includes comprehensive notes addressing the 120 day Plant Establishment Period (PEP) and the 5 year Long Term Maintenance and Monitoring Period (LTMMP) which occurs after PEP is acceptance by the City. Notes shall also address and provide recommendations for the ongoing maintenance requirements (after final acceptance of the LTMMP by the City).
4. Direct the PB to ensure the LCD includes a note requiring the Permit Holder to enter into a bonded Biological Mitigation Agreement to assure success of the revegetation/restoration during the LTMMP. This may not be necessary when the construction permit that has an associated performance bond that is active and has included the restoration and monitoring costs in their entirety within it and adequately assures success of the revegetation/ restoration program to the satisfaction of MMC.

Prior to Start of Construction the Permit Holder shall hold a Preconstruction Meeting (Pre Con) and shall:

1. Direct the PB to attend the Pre con Meeting (refer to Requirements for Land in Proximity to Biological Resources above for additional information)

During Construction the Permit Holder shall have a Project Biologist Present During Construction/Grading/Excavation/Planting/Irrigation and shall:

1. Direct the PB to supervise the placement of the orange construction fence (refer to Requirements for Land in Proximity to Biological Resources above for additional information)

During Plant Installation the Permit Holder shall:

1. Direct the PB to ensure that all clearing, grubbing, grading, contouring, excavation, trenching, installation of plant materials, and any necessary actions required during installation are done per the approved LCD.
2. Direct the PB to review the mitigation area and assess completion of the installation and submit a letter report to Permit Holder who then submits it to RE/MMC requesting the Plant Installation Inspection. RE/MMC will review the report and schedule the inspection (walk thru). Upon completion of the Plant Installation Inspection, including all punch list items, MMC will provide written acceptance of plant installation to the RE and Permit Holder.

3. Direct the PB to begin the 120 Plant Establishment Period (PEP) monitoring.

During the 120 Day Plant Establishment Period (PEP) the Permit Holder shall:

1. Direct the PB to ensure that all maintenance and/ or remedial activities required during the 120 day PEP are done per approved LCD/BCME.
2. Direct the PB to supervise the maintenance and be responsible for the monitoring of the revegetation/restoration mitigation area for a minimum of 120 Days. Maintenance visits shall be conducted on a weekly basis throughout the PEP, unless otherwise noted in the MMRP and/or LCD/BCME.
3. Direct the PB to review the mitigation area and assess completion of the PEP and submit a report to the Permit Holder who will then submit the report to RE/MMC requesting the PEP inspection. RE/MMC will review the report and schedule the inspection (walk thru). Upon completion of the PEP inspection, including all punch list items, MMC will provide written acceptance of the PEP to the RE and PERMIT HOLDER.
4. Direct the PB to begin the 36-month, Long Term Maintenance and Monitoring Period (LTMMP).

During Post Construction the Permit Holder shall conduct a 36-month, Long Term Maintenance and Monitoring Period (LTMMP) and shall:

1. Direct the PB to ensure the required LTMMP activities and reporting shall include all items and performance standards described in the LCD/BCME.
2. Direct the PB to evaluate the Revegetation/Restoration effort both qualitatively and quantitatively to determine compliance with the performance standards identified on the LCD/BCME. The biological monitoring requirements may be reduced if, before the end of 36 months, the Revegetation/Restoration meets the third year criteria and the irrigation has been terminated for at least one summer season.
3. Direct the PB to supervise the removal of the temporary irrigation system and construction BMPs and to verify this in writing on the final post-construction phase CSV.

During Post Construction the Permit Holder shall submit Progress and Annual Monitoring Reports and shall:

1. Direct the PB to submit Annual Reports summarizing the results of each progress report including quantitative monitoring results and photographs taken from permanent viewpoints shall be submitted to MMC for review and approval within 30 days following that phase of required monitoring. A request for inspection shall accompany each annual report. After reviewing each report, MMC will schedule the inspection.

During Post Construction the Permit Holder shall submit a Final Monitoring Report and shall:

1. Direct the PB to evaluate success of the mitigation effort and prepare a Final Monitoring Report upon achievement of the fifth year performance/success criteria.
2. Direct the PB to submit the Final Monitoring Report and any outside agency reports to the RE/MMC for review and approval. A request for a final inspection shall also be submitted at this time. After review of the report RE/MMC will schedule the Final Inspection.
3. Direct the PB to coordinate the final acceptance of the Revegetation/Restoration Project. If at the end of the 36 months any of the revegetated/restored area fails to meet the project's final success criteria, the Permit Holder must consult with RE/MMC to resolve the situation.
4. It is the responsibility of the Permit Holder to understand that failure of any significant portion of the revegetation/restoration area may result in implementation of the contingency/remediation requirements to replace or renegotiate for failing portion(s) of the site and/or extend the establishment/maintenance/monitoring period until all success criteria are met to the satisfaction of MMC Staff.

LAND USE -MHPA

Land Use Adjacency Guidelines Mitigation –

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 City ADD (or designee) shall verify that the project is in compliance with the MSCP Subarea Plan's Land Use Adjacency Requirements and that the following site specific requirements are noted on the grading plans under the heading Environmental Requirements:
 - A. Drainage - All new and proposed parking lots and developed areas in and adjacent to the preserve must not drain directly into the MHPA. All developed and paved areas must prevent the release of

toxins, chemicals, petroleum products, exotic plant materials and other elements that might degrade or harm the natural environment or ecosystem processes within the MHPA. This can be accomplished using a variety of methods including natural detention basins, grass swales or mechanical trapping devices. These systems shall be maintained approximately once a year, or as often as needed, to ensure proper functioning. Maintenance shall include dredging out sediments if needed, removing exotic plant materials, and adding chemical-neutralizing compounds (e.g., clay compounds) when necessary and appropriate. In general, any man-made storm drains draining into the MHPA shall employ dissipation and filtering devices. Compliance with City of San Diego Engineering Drainage Standards shall be ensured to the satisfaction of the ADD and City Engineer.

- B. Toxics - Land uses, such as urban development, recreation and agriculture, that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, that are potentially toxic or impactive to wildlife, sensitive species, habitat, or water quality shall incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. In addition, no trash, oil, parking, or other construction/development-related material/activities shall be allowed outside the established limits of disturbance (i.e. outside of the paved existing access roads). Measures shall include drainage/detention basins, swales, or holding areas with non-invasive grasses or wetland-type native vegetation to filter out the toxic materials. Regular maintenance shall be provided. Where applicable, this requirement shall be incorporated into leases on publicly owned property as leases come up for renewal.
- C. Lighting- Lighting of all developed areas adjacent to the MHPA shall be directed away from the MHPA. Where necessary, development shall provide adequate shielding with non-invasive plant materials (preferably native), berming, and/or other methods to protect the MHPA and sensitive species from night lighting.
- D. Noise -Uses in or adjacent to the MHPA shall be designed to minimize noise impacts. Berms or walls shall be constructed adjacent to commercial areas, recreational areas, and any other use that may introduce noises that could impact or interfere with wildlife utilization of the MHPA. Excessively noisy uses (i.e. construction) or activities adjacent to breeding areas must incorporate noise reduction measures to reduce noise below 60 dB and/or be curtailed during the general and sensitive bird breeding season (February 1-September 15) per the City and

Wildlife Agency protocol. Adequate noise reduction measures shall also be incorporated for the remainder of the year.

- E. Barriers-. New development adjacent to the MHPA shall be required to provide barriers (e.g., non-invasive vegetation, rocks/boulders, fences, walls, and/or signage) along the MHPA boundaries to direct public access to appropriate locations and reduce domestic animal predation.
- F. Invasives - No invasive non-native plant species shall be introduced into areas adjacent to the MHPA. All plantings at the urban/natural edge shall be native, drought tolerant, and acceptable to the Fire Marshal. No invasive/non-native species shall be located on-site where they have the potential to invade on-site, or adjacent natural lands. Prior to issuance of any notice to proceed, the ADD Environmental designee shall verify that the construction plans specify that areas within or adjacent to the MHPA shall be hydroseeded or planted with a native seed mix and or native container stock, as shown on Exhibit A. All revegetation within 100 feet of native habitat must be native chaparral or coastal sage scrub species. No deviations shall be made from the EAS approved Exhibit A without prior EAS approval.
- G. Brush Management - New residential development located adjacent to and topographically above the MHPA (e.g., along canyon edges) must be set back from slope edges to incorporate Zone 1 brush management areas on the development pad and outside of the MHPA. Zones 2 may be located in the MHPA upon granting of an easement to the City (or other acceptable agency) except where narrow wildlife corridors require it to be located outside of the MHPA. Brush management zones will not be greater in size that is currently required by the City's regulations. The amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done. Vegetation clearing shall be done consistent with City standards and shall avoid/minimize impacts to covered species to the maximum extent possible. For all new development, regardless of the ownership, the brush management in the Zone 2 area will be the responsibility of a homeowners association or other private party. For existing project and approved projects, the brush management zones, standards and locations, and clearing techniques will not change from those required under existing regulations.
- H. Grading/Land Development- Manufactured slopes associated with site development shall be included within the development footprint for projects within or adjacent to the MHPA.

Mitigation for Potential Impacts to California Gnatcatcher

1. Prior to the issuance of any grading or construction permit and/or prior to the preconstruction meeting), the ADD (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, WHICH EFFECT THE BREEDING SEASON OF THE COASTAL CALIFORNIA GNATCATCHER WHOSE TERRITORY IS WHOLLY WITHIN/OR PARTIALLY WITHIN A MHPA AREA, 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 GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:

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

NOISE

1. Prior to issuance of the building permit, the applicant shall submit building plans, subject to approval by the City ADD or designee, which show that how the project would comply with the City Municipal Code regarding noise and Title 24 of the CA Building Code. The following specific acoustical mitigation measures at a minimum per the Gables Carmel Creek Preliminary Noise Study (Urban Crossroads, March 31, 2009) must be specified on the plans:
 - A. All building must show required air conditioning or mechanical ventilation
 - B. All plan sets must show the proposed project feature consisting of a four-foot high plexiglass wall (or structural and decibel reducing equivalent) at the north end of the development which would reduce outdoor decibel levels to from 65 dBA to 62 dBA. This feature shall also be made a condition of the permit.
2. Prior to issuance of the Certificate of Occupancy, the applicant/owner shall provide proof of noise compliance via City inspection and "As Built" acoustical report results subject to approval by the City ADD or designee.
 - A. All windows must have the appropriate STC rating per the results of the required post construction interior noise assessment.

PALEONTOLOGICAL RESOURCES

1. 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.

2. Prior to Start of Construction

A. Verification of Records Search

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

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI,

Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.

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

3. During Construction

- A. Monitor Shall be Present During Grading/Excavation/Trenching
 1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities 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 (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 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.

4. Night and/or Weekend Work

- A. If night and/or weekend work is included in the contract
 - 1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
 - 2. The following procedures shall be followed.
 - a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, The PI shall record the information on the CSVR and submit to MMC via fax by 8AM on the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Section 3 - During Construction.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section 3 - 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 3-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction
 - 1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 - 2. The RE, or BI, as appropriate, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

5. 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.

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.