

RESOLUTION NUMBER R- 307762

DATE OF FINAL PASSAGE OCT 22 2012

A RESOLUTION CERTIFYING ADDENDUM TO ENVIRONMENTAL IMPACT REPORT (EIR) NO. 95-101015 AND MITIGATED NEGATIVE DECLARATION (MND) SCH NO. 98031064 FOR OUTLETS AT THE BORDER PROJECT NO. 194101.

WHEREAS, on April 2, 1996, the City Council of the City of San Diego adopted Resolution No. R-287149, certifying Environmental Impact Report (EIR) SCH No. 95-101015 for the San Ysidro Redevelopment Project and, on May 12, 1998, the City Council of the City of San Diego adopted Resolution No. R-290105, certifying Mitigated Negative Declaration (MND) SCH No. 98031064 for the International Gateway of the Americas Project Disposition and Development Agreement, copies of which are on file in the Development Services Department in accordance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, section 15000 et seq.); and

WHEREAS, on October 21, 2009, the Shamrock/Las Americas Venture I, LLC, Owner/Permittee, submitted an application to the Development Services Department for Site Development Permit No. 685774, Neighborhood Use Permit No. 873083 and Easement Vacation No. 873084 for the Outlets at the Border Project No. 194101 (Project); and

WHEREAS, State CEQA Guidelines section 15164 allows a lead agency to prepare an Addendum to a final Environmental Impact Report or Mitigated Negative Declaration if such Addendum meets the requirements of CEQA; and

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

BE IT RESOLVED, by the City Council of the City of San Diego as follows:

1. That the information contained in Environmental Impact Report (EIR) SCH No. 95-101015 and Mitigated Negative Declaration (MND) SCH No. 98031064 along with the Addendum thereto, including any comments received during the public review process, has been reviewed and considered by this City Council of the City of San Diego prior to making a decision on the Project;
2. That there are no substantial changes proposed to the Project and no substantial changes with respect to the circumstances under which the Project is to be undertaken that would require major revisions to Environmental Impact Report (EIR) SCH No. 95-101015 or Mitigated Negative Declaration (MND) SCH No. 98031064 for the Project;
3. That no new information of substantial importance has become available showing that the Project would have any significant effects not discussed previously in Environmental Impact Report (EIR) SCH No. 95-101015 or Mitigated Negative Declaration (MND) SCH No. 98031064 or that any significant effects previously examined will be substantially more severe than shown in Environmental Impact Report (EIR) SCH No. 95-101015 or Mitigated Negative Declaration (MND) SCH No. 98031064;

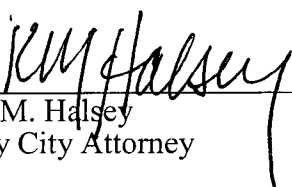
4. That no new information of substantial importance has become available showing that mitigation measures or alternatives previously found not to be feasible are in fact feasible which would substantially reduce any significant effects, but that the Project proponents decline to adopt, or that there are any considerably different mitigation measures or alternatives not previously considered which would substantially reduce any significant effects, but that the Project proponents decline to adopt;

5. That none of the conditions described in State CEQA Guidelines section 15162 have occurred and that, pursuant to State CEQA Guidelines section 15164, the City Council of the City of San Diego adopts Addendum No. 194101 to Environmental Impact Report (EIR) SCH No. 95-101015 and Mitigated Negative Declaration (MND) SCH No. 98031064 with respect to the Project, a copy of which is on file in the office of the Development Services Department;

6. That pursuant to CEQA section 21081.6, the City Council of the City of San Diego adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this City Council of the City of San Diego in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit A; and

7. That the City Clerk is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

APPROVED: JAN I. GOLDSMITH, City Attorney

By: 
Keely M. Halsey
Deputy City Attorney

KMH:als
10/05/12
Or.Dept: DSD
Doc. No. 441453

Attachment: Exhibit A, Mitigation Monitoring and Reporting Program

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

SITE DEVELOPMENT PERMIT NO. 685774, NEIGHBORHOOD USE PERMIT NO. 873083,
AND EASEMENT ABANDONMENT NO. 873084
OUTLETS AT THE BORDER - PROJECT NO. _194101_____

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. 194101 to Environmental Impact Report (EIR) SCH No. 95-101015 and Mitigated Negative Declaration (MND) SCH No. 98031064 shall be made conditions of Site Development Permit No. 685774, Neighborhood Use Permit No. 873083 and Easement Abandonment No. 873084, as may be further described below.

The Outlets at the Border project shall be required to comply with all mitigation measures outlined within the Mitigation, Monitoring and Reporting Program of the previously certified EIR SCH No. 95-101015 and MND SCH No. 98031064 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 Archaeologist
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, applicant is also required to call **RE and MMC at 858-627-3360**
2. **MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) Number 194101 and /or Environmental Document Number 194101, 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 11x11 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
Traffic	Traffic Reports	Traffic features site observation
Waste Management	Waste Management Reports	Waste management inspections
Public Health/Safety	DEH Letter	Prior to issuance of grading permits
Bond Release	Request for Bond Release letter	Final MMRP inspections prior to Bond Release Letter

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

TRANSPORTATION/TRAFFIC CIRCULATION

I. Near Term

Intersections

- a. Prior to issuance of first building permit, the proposed project shall assure by permit and bond the construction of a traffic signal at this intersection and provide signal interconnect between the signals at I-5 NB Ramps/Via De San Ysidro and I-5 SB Ramps/Via De San Ysidro/Calle Primera intersections. In the near-term with proposed project scenario, the peak hour signal warrant would be met both during the AM and PM peak hours at this intersection.
- b. Prior to issuance of first building permit, the proposed project shall assure by permit and bond the construction of a traffic signal at the intersection of Virginia Avenue and Camino De La Plaza. In the near-term with proposed project scenario, the peak hour signal warrant will would be met during the PM peak hour at this intersection.
- c. Prior to issuance of first building permit, the proposed project shall assure by permit and bond the construction of a second northbound left-turn lane on E. San Ysidro Boulevard at the Camino De La Plaza (E. Beyer Boulevard)/E. San Ysidro Boulevard intersection to mitigate excessive queuing. As a result, some signal modifications may be required at this intersection. The existing loading/unloading zone on the west curb accommodates approximately 5 cars, with parking permitted for 3 minutes. This loading zone may either be reduced in length or eliminated to make room for the proposed dual left turn lanes at Camino De La Plaza. This loading zone is mainly utilized by people crossing the international border to and from Mexico on foot

Street Segments

- a. Per condition 58 of Permit No. 40-0338 (MMRP) for the Las Americas Premium Outlets, dated November 14, 2000, "Dairy Mart Road between Interstate 5 SB ramps and Camino De La Plaza is classified as a 4-lane collector roadway. Prior to the issuance of the first building permit exceeding 407,000 square feet, applicant shall assure by permit and bond, the construction of 68 feet of pavement and AC berm on both sides of the roadway within the existing 80-foot right-of-way, satisfactory to the City Engineer." The improvement of this segment of Dairy Mart Road has been assured by Las Americas Premium Outlets to the satisfaction of the City Engineer.
- b. Calle Primera/Willow Road segment: Via De San Ysidro to Camino De La Plaza
The following improvements, which will increase the capacity of this roadway to mitigate the segment impact in lieu of widening the entire roadway to City of San Diego four-lane collector standards, shall be completed or assured by permit and bond, prior to issuance of first building permit for the project:

- Prohibit parking on the north side of Calle Primera. This parking is useful to the few businesses on the south side of the street. However, this parking is not very highly utilized since most of these businesses have on-site parking. Prohibition of parking would eliminate approximately 43 spaces and reduce friction due to parking maneuvers.
 - Widen Calle Primera from just east of Sycamore Road to Via De San Ysidro for a length of approximately 300 feet to provide a 200 foot long westbound right-turn lane on Calle Primera at Via De San Ysidro and a 60-foot long westbound left-turn lane at Sycamore Road. Parking is not permitted on the west curb of Calle Primera, and thus no additional parking spaces would be eliminated. These improvements would improve the operations at the Calle Primera/Via De San Ysidro and Calle Primera Sycamore Road intersections, thus improving the traffic operations along the segment.
 - Provide a 60-foot long northbound left-turn lane at one driveway on Willow Road, to the north of Willow Elementary school. The curb along this proposed northbound left turn lane is painted red and no curbside parking is permitted. Hence, no parking would be eliminated.
- c. Camino De La Plaza segment: Virginia Avenue to I-5 SB Ramps - The Redevelopment Agency is in the process of adding an additional westbound lane and sidewalk on the north side of Camino De La Plaza between Virginia Avenue and the I-5 SB Ramps in order to address pre-existing traffic conditions in the area. Implementation of these improvements will result in the project having a less than significant impact on this segment of Camino De La Plaza. If such improvements are not assured by the Redevelopment Agency to the satisfaction of the City Engineer prior to the issuance of first building permit for the project, the project shall assure to the satisfaction of the City Engineer construction of one additional eastbound lane with curb, gutter, and sidewalk on Camino De La Plaza within the existing right of way between Virginia Avenue and the I-5 SB Ramps. This is possible within the existing right-of-way.

II. Long Term

Intersections

- a. I-5 NB Ramps/Via De San Ysidro intersection - Mitigated by the installation of a traffic signal and signal interconnect by the proposed project in the near-term.
- b. I-5 SB Ramps/Via de San Ysidro/Calle Primera intersection – Mitigated by the installation of traffic signal interconnect by the proposed project in the near term.
- c. Camino De La Plaza/Virginia intersection - Mitigated by the installation of a traffic signal by the proposed project in the near-term.

Street Segments

Dairy Mart Road segment: I-5 SB Ramps to Camino De La Plaza - Per condition 58 of Permit No. 40-0338 (MMRP) for the Las Americas Premium Outlets, dated November 14, 2000, "Dairy Mart Road between Interstate 5 SB ramps and Camino De La Plaza is classified as a 4-lane collector roadway. Prior to the issuance of the first building permit exceeding 407,000 square feet, applicant shall assure by permit and bond, the construction of 68 feet of pavement and AC berm on both sides of the roadway within the existing 80-foot right-of-way, satisfactory to the City Engineer." The improvement of this segment of Dairy Mart Road has been assured by Las Americas Premium Outlets to the satisfaction of the City Engineer

PUBLIC SERVICES (WASTE MANAGEMENT)

In order to avoid cumulative impacts to public services (waste management), the following mitigation measures shall be implemented by the project applicant:

- I. Entitlements Division Plan Check
 1. Prior to the issuance of any construction permit, including but is not limited to, demolition, grading, building or any other construction permit, the Assistant Deputy Director (ADD) Environmental Designee shall verify that the all the requirements of the Refuse & Recyclable Materials Storage Regulations and all of the requirements of the waste management plan are shown and noted on the appropriate construction documents. All requirements, notes and graphics shall be in substantial conformance with the conditions and exhibits of the associated discretionary approval.
 2. The construction documents shall include a Waste Management Plan that addresses the following information and elements for demolition, construction, and occupancy phases of the project as applicable:
 - a. tons of waste anticipated to be generated,
 - b. material type of waste to be generated,
 - c. source separation techniques for waste generated,
 - d. how materials will be reused on site,
 - e. name and location of recycling, reuse, or landfill facilities where waste will be taken if not reused on site,
 - f. a "buy recycled" program,
 - g. how the project will aim to reduce the generation of construction/ demolition debris,
 - h. a plan of how waste reduction and recycling goals will be communicated to subcontractors,
 - i. a time line for each of the three main phases of the project as stated above,
 - j. a list of required progress and final inspections by City staff.
 3. The plan shall strive for a goal of 50% waste reduction.
 4. The plan shall include specific performance measures to be assessed upon the completion of the project to measure success in achieving waste minimization goals.

5. The Plan shall include notes requiring the Permittee/Applicant to notify Mitigation Monitoring Coordination (MMC) and Environmental Services Department (ESD) when:
 - a. a demolition permit is issued,
 - b. demolition begins on site,
 - c. inspections are needed. The Permittee/Applicant shall arrange for progress inspections, and a final inspection, as specified in the plan and shall contact both MMC and ESD to perform these periodic site visits during demolition and construction to inspect the progress of the project's waste diversion efforts.
6. When Demolition ends, notification shall be sent to the following:

Mitigation Monitoring Coordination (MMC)
9601 Ridgehaven Court, Ste. 320, MS 1102 B
San Diego, CA 92123 1636
(619) 980 7122

Environmental Services Department (ESD)
9601 Ridgehaven Court, Ste. 320, MS 1103 B
San Diego, CA 92123 1636
(858) 627-3303

II. Prior to the issuance of any grading or building permit, the Permittee/Applicant shall receive approval, in writing, from the ADD Environmental Designee (MMC) that the Waste Management Plan has been prepared, approved, and implemented. Also, prior to the issuance of any grading or building permit, the Permittee/Applicant shall submit written evidence to the ADD Environmental Designee that the final Demolition/Construction report has been approved by MMC and ESD. This report shall summarize the results of implementing the above Waste Management Plan elements, including: the actual waste generated and diverted from the project, the waste reduction percentage achieved, and how that goal was achieved, etc.

1. Pre-Construction (Precon) Meeting
 1. Demolition Permit - Prior to issuance of any demolition permit, the Permittee/Applicant shall be responsible to obtain written verification from MMC indicating that the Permittee/Applicant has arranged a Preconstruction (Precon) Meeting to coordinate the implementation of the MMRP. The Precon Meeting shall include: the Construction Manager, Demolition/Building/Grading Contractor, MMC, ESD, and the Building Inspector and/or the Resident Engineer (whichever is applicable) to verify that implementation of the Waste Management Plan shall be performed in compliance with the plan approved by Entitlements Division and ESD, to ensure that impacts to solid waste facilities are mitigated to below a level of significance.

2. At the Precon Meeting, the Permittee/Applicant shall submit three (3) reduced copies (11"x 17") of the approved Waste Management Plan; two (2) to MMC and one (1) to ESD.
 3. Prior to the start of demolition, the Permittee/the Construction Manager shall submit a construction/demolition schedule to MMC and ESD.
 - i. Grading and Building Permit - Prior to issuance of any grading or building permit, the permittee shall be responsible to arrange a preconstruction meeting to coordinate the implementation of the MMRP. The Precon Meeting shall include: the Construction Manager, Building/Grading Contractor, MMC, ESD, and the Building Inspector and/or the Resident Engineer (whichever is applicable) to verify that implementation of the Waste Management Plan shall be performed in compliance with the plan approved by Entitlements Division and ESD.
 4. At the Precon Meeting, The Permittee/Applicant shall submit reduced copies (11"x 17") of the approved Waste Management Plan to the Resident Engineer, Building Inspector, MMC and ESD.
- III. Prior to the start of construction, the Permittee/Construction Manager shall submit a construction schedule to the Resident Engineer, Building Inspector, MMC and ESD.
- i. The Permittee/Applicant and Construction Manager shall call for inspections by the Resident Engineer, Building Inspector, MMC, and ESD who will periodically visit the demolition/construction site to verify implementation of the Waste Management Plan. The Consultant Site Visit Record (CSVR) shall be used to document the Daily Waste Management Activity/progress.
 - ii. Within 30 days after the completion of the implementation of the MMRP, for any demolition or construction permit, a final results report shall be submitted to both MMC and ESD for review and approval to the satisfaction of the ADD Environmental Designee/City. MMC will coordinate the approval with ESD and issue the approval notification.
 - iii. Prior to final clearance of any demolition permit, issuance of any grading or building permit, release of the grading bond and/or issuance of any Certificate of Occupancy, the Permittee/Applicant shall provide documentation to the ADD Environmental Designee that the Waste Management Plan has been effectively implemented.

PUBLIC HEALTH AND SAFETY

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 profiling and off-site disposal of the estimated three to four cubic yards of petroleum contaminated soil at an approved disposal facility.

Furthermore, the applicant shall make observations during any future site development for areas of possible contamination such as, but not limited to, the presence of underground facilities,

buried debris, waste drums, tanks, staining soil or odorous soils. Should such material be encountered, further investigation shall be required at that time.

CULTURAL RESOURCES (HISTORICAL 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 the 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 the City Mitigation Monitoring Coordination Section (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-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 the ADD 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 Historical 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 appropriated construction documents (reduced to 11 x 17) to MMC identifying the areas to be monitored, including 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 of 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 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 historical 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 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. 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.
 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 the 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 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 Reports

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 the 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 the City Mitigation Monitoring Coordination Section (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 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 must obtain approval from the ADD 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 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 appropriated construction documents (reduced to 11 x 17) to MMC identifying the areas to be monitored, including 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 of 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 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 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 PIU 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 of 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 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.

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

The above Mitigation Monitoring and Reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates or occupancy and/or final maps to ensure the successful completion of the monitoring program.