

RESOLUTION NUMBER R- 310563

DATE OF FINAL PASSAGE JUN 27 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE ADDENDUM NO. 451328 TO ENVIRONMENTAL IMPACT REPORT (EIR) NO. 193036/SCH NO. 201051073 AND ADOPTING THE MITIGATION, MONITORING, AND REPORTING PROGRAM FOR THE NEW ONE PASEO - PROJECT NO. 451328 [MMRP].

WHEREAS, on August 28, 2009, Kilroy Realty, L.P., a Delaware Limited Partnership submitted an application to Development Services Department for a rezone, amendments to the General Plan, the Carmel Valley Community Plan and the Carmel Valley Employment Center Precise Plan, a Vesting Tentative Map (including public right-of-way and easement vacations), a Site Development Permit, a Conditional Use Permit, and a Neighborhood Development Permit for the development of a mixed-use project for the One Paseo; and

WHEREAS, on February 23, 2015, the City Council adopted Resolution No. 309504 certifying Environmental Impact Report No. 193036, SCH NO. 201051073, a copy of which is on file in the Office of the City Clerk 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WHEREAS, on May 21, 2015, in response to a qualified referendum petition, the City Council rescinded Resolution No. R-309505, which included the General Plan Amendment, Community Plan Amendment and Precise Plan Amendment; and

WHEREAS, on October 15, 2015, Kilroy Realty, L.P. submitted an application to the Development Services Department for amendments to the Municipal Code, General Plan, the Carmel Valley Community Plan and the Carmel Valley Employment Center Precise Plan, a

Vesting Tentative Map, a Site Development Permit and a Neighborhood Development Permit for the development of a mixed-use project for the New One Paseo (Project); and

WHEREAS, State CEQA Guidelines section 15164(a) allows a lead agency to prepare an Addendum to a final Environmental Impact Report, if such Addendum meets the requirements of CEQA; 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, a public hearing is required by law implicating due process rights of individuals affected by the decision, and the Council is required by law to consider evidence at the 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 the final Environmental Impact Report No. 193036, SCH No. 201051073 along with the Addendum thereto, including any comments received during the public review process, has been reviewed and considered by this City Council prior to making a decision on the Project.
2. That there are no substantial changes proposed through the consideration of the Project and no substantial changes with respect to the circumstances that would require major revisions in the Environmental Impact Report.
3. That no new information of substantial importance has become available showing that the Project would have any significant effects not discussed previously in the Environmental Impact Report or that any significant effects previously examined will be substantially more severe than shown in the Environmental Impact Report.

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 pursuant to State CEQA Guidelines Section 15164, none of the conditions of described in State CEQA Guidelines section 15162 have occurred or only minor technical changes or additions are necessary, and therefore, the City Council adopts Addendum to Environmental Impact Report No. 451328, SCH No. 2010051073 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 adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this City Council in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, 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 after final passage of O- 20677 approving Vesting Tentative Map No. 1579190 and O- 20676 approving Site Development Permit No. 1579191 and Neighborhood Development Permit No. 1579192.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Corrine L. Neuffer
Deputy City Attorney

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EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

GENERAL REQUIREMENTS

As Lead Agency for the proposed project under CEQA, the City of San Diego will administer the Mitigation, Monitoring, and Reporting Program (MMRP) for the following environmental issue areas as identified in the Addendum to the One Paseo Project EIR: Transportation/Circulation/Parking, Visual Effects and Neighborhood Character, Noise, Paleontological Resources, Biological Resources, Health and Safety, and Historical Resources. The mitigation measures identified below include all applicable measures from the Addendum to the One Paseo Project EIR (Project No. 193036; SCH No. 2010051073).

Section 21081.6 to the State of California PRC requires a Lead or Responsible Agency that approves or carries out a project where an EIR has identified significant environmental effects to adopt a “reporting or monitoring program for adopted or required changes to mitigate or avoid significant environmental effects.” The City of San Diego is the Lead Agency for the One Paseo Project EIR, and therefore must ensure the enforceability of the MMRP. An EIR and Addendum has been prepared for this project that addresses potential environmental impacts and, where appropriate, recommends measures to mitigate these impacts. As such, an MMRP is required to ensure that adopted mitigation measures are implemented. Therefore the following general measures are included in this MMRP:

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) and Job Site Superintendent.

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) #451328 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.

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:

<u>Issue Area</u>	<u>Document Submittal</u>	<u>Assoc Inspection/Approvals</u>
General	Consultant Qualification Letters	Prior to Pre-con Meeting
General	Consultant Const. Monitoring Exhibits	Prior to or at the Pre-con Meeting
Geology	As Graded Soils Report	Geotechnical/fault inspection
Paleontology	Paleontology Reports	Paleontology site observation
Archaeology	Archaeology Reports	Archaeology/Historic site observation
Biology	Biology Reports	Biology inspection
Noise	Acoustical Reports	Noise mitigation features inspection
Traffic	Traffic Reports	Traffic features site observation
Waste Management	Waste Management Reports	Waste management inspections
Bond Release	Request for Bond Release letter	Final MMRP inspections prior to Bond Release Letter

SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

Transportation/Circulation/Parking

Mitigation Measure 5.2-1: Prior to issuance of the first building permit for an office building, the project applicant shall assure by permit and bond reconfiguration of the median on the Del Mar Heights Road bridge to extend the EB to NB dual left-turn pocket to 400 feet to the satisfaction of the City Engineer and Caltrans. Prior to issuance of the first certificate of occupancy for an office building, the median reconfiguration shall be completed and accepted by the City Engineer or Caltrans.

Mitigation Measure 5.2-1.1: Prior to issuance of the first building permit, the project applicant shall contribute to Caltrans \$1,192,500 toward the provision of a third eastbound through lane on the Del Mar Heights Road bridge to the satisfaction of the City Engineer. The project applicant has voluntarily agreed to pay Caltrans an additional \$307,500 at that time, an amount in excess of its fair share contribution, for a total payment of \$1,500,000. The amount paid in excess of the applicant's fair share contribution is included as a project feature.

Mitigation Measure 5.2-2: (a) Prior to issuance of the first building permit, the project applicant shall assure by permit and bond the widening of the segment of Del Mar Heights Road within City jurisdiction to extend the WB right-turn pocket at the Del Mar Heights Road/I-5 NB on-ramps by 470 feet east of the existing limit line (at intersection) to the satisfaction of the City Engineer. Prior to issuance of the first certificate of occupancy, the widening and lengthening shall be completed and accepted by the City Engineer. (b) Prior to issuance of the first building permit for an office building, the project applicant shall assure by permit and bond the widening of the segment of Del Mar Heights Road to include a second WB to NB right turn lane at the Del Mar Heights Road/I-5 NB on-ramp within Caltrans' jurisdiction to the satisfaction of Caltrans and the City Engineer. Prior to issuance of the first certificate of occupancy for an office building, the widening shall be completed and accepted by Caltrans and the City Engineer. Upon completion of this mitigation measure, one right-turn lane shall extend to the west side of the AT&T building and one right-turn lane shall extend to the east side of the AT&T building.

Mitigation Measure 5.2-3: Prior to issuance of the first building permit, the project applicant shall make a fair-share contribution (2.5 percent) towards the widening of El Camino Real from Via de la Valle to San Dieguito Road to a four-lane Major to the satisfaction of the City Engineer.

Mitigation Measure 5.2-4: Prior to issuance of the first building permit, the project applicant shall make a fair-share contribution (9.7 percent) towards the widening of Via de la Valle from San Andres Drive to El Camino Real (West) to a four-lane Major to the satisfaction of the City Engineer.

Mitigation Measure 5.2-5: Prior to issuance of the first building permit, the project applicant shall assure by permit and bond installation of a traffic signal at the Carmel Creek Road/Del Mar Trail intersection, to the satisfaction of the City Engineer. Prior to issuance of the first certificate of occupancy, the traffic signal shall be completed and accepted by the City Engineer.

Mitigation Measure 5.2-6: Prior to issuance of the first building permit, the project applicant shall assure by permit and bond to the satisfaction of the City Engineer the restriping and signal modification to provide a third NB left-turn lane at the intersection of Del Mar Heights Road and High Bluff Drive, and lengthen the EB left-turn lane by 90 feet and modify the raised median to accommodate this. Prior to issuance of the first certificate of occupancy, the third NB left-turn lane and EB left-turn lane lengthening shall be completed and accepted by the City Engineer.

Mitigation Measure 5.2-7: Prior to issuance of the first building permit, the project applicant shall assure by permit and bond construction of a 200-foot long EB right-turn lane plus appropriate transition at the Del Mar Heights Road/El Camino Real intersection, to the satisfaction of the City Engineer. Prior to issuance of the first certificate of occupancy, the 200-foot long EB right-turn lane shall be completed and accepted by the City Engineer.

Mitigation Measure 5.2-8: Prior to issuance of the first building permit for an office building, the project applicant shall make a fair-share contribution (2.7 percent) towards the widening and re-striping of the EB approach to provide one left, one shared through/left-turn, one through, and two right-turn lanes at the El Camino Real/SR 56 EB on-ramp intersection to the satisfaction of the City Engineer.

Mitigation Measure 5.2-9: Prior to issuance of the first building permit for an office building, the project applicant shall assure by permit and bond construction of the following improvements at the Del Mar Heights Road/I-5 NB ramps to the satisfaction of the City Engineer and Caltrans: (1) widen/re-stripe the I-5 NB off-ramp to include dual left, one shared through/right, and one right-turn lane; (2) widen the segment of Del Mar Heights Road to include a second WB to NB right turn lane at the Del Mar Heights Road/I-5 NB on-ramp within Caltrans' jurisdiction; and (3) reconfigure the median on the Del Mar Heights Road bridge to extend the EB dual left-turn pocket to 400 feet. Prior to issuance of the first certificate of occupancy for an office building, all improvements in this mitigation measure shall be completed and accepted by the City Engineer and Caltrans.

Mitigation Measure 5.2-10: Prior to issuance of the first building permit for an office building, the project applicant shall make a fair-share contribution (25.5 percent) towards adding an HOV lane to the I-5 SB loop on-ramp to the satisfaction of the City Engineer.

Mitigation Measure 5.2-11: Prior to issuance of the first building permit for an office building, the project applicant shall make a fair-share contribution (31.1 percent) towards widening and restriping to add a HOV lane to the I-5 NB on-ramp to the satisfaction of the City Engineer.

Noise

Mitigation Measure 5.4-1: Prior to issuance of building permits, a noise analysis shall be completed to assess building-specific stationary noise sources and impacts to on-site uses. Appropriate noise attenuation measures identified in the noise analysis shall be incorporated into the project design to ensure compliance with the Noise Ordinance noise limits for stationary sources (i.e., interior noise levels of 45 dBA L_{EQ} or less for residential and hotel uses; 50 dBA

LEQ or less for commercial uses). Methods for ensuring compliant interior noise levels may include, but would not be limited to, the following:

- Installation of roof-top mechanical ventilation and HVAC units on mounts that isolate the building from vibration caused by the machinery;
- In the floors separating residential uses from non-residential uses, use additional thicknesses of building materials and/or materials designed to isolate the residential spaces from vibration generated by non-residential spaces;
- Commercial air handling ducts shall not be routed in or adjacent to interior living space walls without specific plans to address isolation;
- Commercial HVAC systems shall not be mounted over interior living areas without specific plans to address isolation;
- Clusters of residential HVAC systems shall not be mounted directly over residential areas;
- Coolant or large water lines including HVAC water for commercial services shall not be routed in walls adjacent to living areas without specific plans to address isolation;
- Operable windows shall not be located where they look directly at any rooftop HVAC systems in adjacent buildings;
- Elevator shafts shall not be located directly adjacent to living quarters without specific plans to address isolation; and/or
- Commercial spaces for nighttime entertainment shall not have a common floor ceiling to a living space.

Once the project is constructed and in full operation, the developer shall conduct on-site noise measurements to verify that noise planning and attenuation measures identified in the noise analysis have mitigated project noise to levels below those proscribed by the Noise Ordinance noise limits for stationary sources.

Mitigation Measure 5.4-2: Prior to issuance of building permits, an exterior-to-interior noise analysis shall be completed to assess off-site noise sources and impacts to interior on-site residential and commercial uses. Appropriate noise planning and attenuation measures identified in the noise analysis shall be incorporated into the project design to ensure compliance with the General Plan Noise Element Land use - Noise Compatibility Guidelines (i.e., interior noise levels of 45 dBA CNEL or less for residential and hotel uses; 50 dBA CNEL or less for commercial uses). Methods for ensuring compliant interior noise levels may include, but would not be limited to, the following:

- Use of window glazing with an increased sound transmission classification;
- Use of additional thicknesses of interior drywall; and/or
- Use of additional thicknesses of exterior building materials.

Once the project is constructed and in full operation, interior noise measurements shall be conducted to verify that exterior-to-interior noise planning has mitigated project noise levels to

ensure compliance with the General Plan Noise Element Land use – Noise Compatibility Guidelines.

Mitigation Measure 5.4-3: Prior to issuance of building permits, an interior noise analysis shall be completed to assess on-site noise sources and impacts to interior on-site residential uses. Appropriate noise planning and attenuation measures identified in the noise analysis shall be incorporated into the project design to ensure compliance with the General Plan Noise Element Land use - Noise Compatibility Guidelines. Potential noise planning and attenuation measures may include, but are not limited to, the following:

- Commercial air handling ducts shall not be routed in or adjacent to interior living space walls without specific plans to address isolation;
- Commercial HVAC systems shall not be mounted over interior living areas without specific plans to address isolation;
- Clusters of residential HVAC systems shall not be mounted directly over residential areas;
- Coolant or large water lines including HVAC water for commercial services shall not be routed in walls adjacent to living areas without specific plans to address isolation;
- Operable windows shall not be located where they look directly at any rooftop HVAC systems in adjacent buildings;
- Elevator shafts shall not be located directly adjacent to living quarters without specific plans to address isolation;
- Commercial spaces for nighttime entertainment shall not have a common floor ceiling to a living space;
- Limitations upon the use of exterior amplified music systems associated with entertainment such as prohibiting exterior amplified music systems in areas directly adjacent to or below on-site residences,¹ and
- Commercial lease agreements shall include strict enforceable measures to control interior and exterior noise to limit impacts to residential areas.

Once the project is constructed and in full operation, interior noise measurements shall be conducted to verify that interior noise planning has mitigated project noise levels to ensure compliance with the General Plan Noise Element Land use – Noise Compatibility Guidelines.

Mitigation Measure 5.4-4: Whenever excavation occurs within 100 feet of an occupied residential unit within the project, noise attenuation shall be provided sufficient to comply with the Noise Ordinance (i.e., a 12-hour average of greater than 75 dBA L_{EQ}). Potential attenuation measures include, but are not limited to, use of sound walls, sound blankets, noise attenuation devices/modifications to construction equipment, and use of quieter equipment.

¹ This excludes temporary outside amplification systems use for a short-term special event conducted with a separate City special event permit.

Paleontological Resources

Mitigation Measure 5.8-1: The following shall be implemented:

I. Prior to Permit Issuance

A. Entitlements Plan Check

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the 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 MMC identifying the PI for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

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

B. PI Shall Attend Precon Meetings

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

III. During Construction

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

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.**
2. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.
3. The monitor shall document field activity via the CSV. The CSVs shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

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

C. Determination of Significance

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

IV. **Night and/or Weekend Work**

A. If night and/or weekend work is included in the contract

1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the Precon meeting.
2. The following procedures shall be followed.
 - a. No Discoveries

In the event that no discoveries were encountered during night and/or weekend work, The PI shall record the information on the CSV and submit to MMC via fax by 8 AM on the next business day.

b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.

c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.

d. The PI shall immediately contact MMC, or by 8 AM on the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, or BI, as appropriate, shall notify MMC immediately.

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

V. Post Construction

A. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring.
 - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with the San Diego Natural History Museum
The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Fossil Remains

1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate

C. Curation of fossil remains: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

Biological Resources

Mitigation Measure 5.9-1: Prior to the issuance of any authorization to proceed, the ADD Environmental designee shall ensure that the following measures are included as notes in the construction plans and grading plans:

1. If project grading/brush management is proposed in or adjacent to native habitat during the typical bird breeding season (i.e. February 1 - September 15), or an active nest is confirmed, the project biologist shall conduct a pre-grading 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 confirmed, 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 active nests are confirmed per “A” above, mitigation under “A” is not required.

Health and Safety

Mitigation Measure 5.13-1: Construction permits shall designate staging areas where fueling and oil-changing activities are permitted. No fueling and oil-changing activities shall be permitted outside the designated staging areas. The staging areas, as much as practicable, shall be located on level terrain and away from sensitive land uses such as residences, and schools. Staging areas shall not be located near any stream channels or wetlands. The proposed staging areas shall be identified in the construction site plans, which shall be submitted to the Regional Water Quality Control Board as part of the Notice of Intent to File under the NPDES permit process.

Mitigation Measure 5.13-2: Prior to construction, a Health and Safety Plan shall be prepared and worker training shall be implemented to manage potential health and safety hazards to workers and the public.

Historical Resources

Mitigation Measure 5.14-1: The following measures shall be implemented:

I. Prior to Permit Issuance

A. Entitlements Plan Check

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the 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 MMC identifying the PI for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego HRG. If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training with certification documentation.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.
3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

II. **Prior to Start of Construction**

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (¼-mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼-mile radius.

B. PI Shall Attend Precon Meetings

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

III. During Construction

A. Monitor(s) Shall be Present During Grading/Excavation/Trenching

1. The Archaeological Monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. **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 AME.**
2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section III.B-C and IV.A-D shall commence.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.
4. The archaeological and Native American consultant/monitor shall document field activity via the Consultant Site Visit Record (CSV). The CSV's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources 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.
4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.

C. Determination of Significance

1. The PI and Native American consultant/monitor, where Native American resources are discovered 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) which has been reviewed by the Native American consultant/monitor, 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. **Note: If a unique archaeological site is also an historical resource as defined in CEQA, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.**
 - c. If the 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 no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Section 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) of the Development Services Department to assist with the discovery notification process.
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 provenance of the remains.
2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenance.

3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains **ARE** determined to be Native American

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, 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, THEN,
 - 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 artifacts with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.

D. If Human Remains are **NOT** Native American

1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/ landowner, any known descendant group, and the San Diego Museum of Man.

VI. **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 CSVN 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. **It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe resulting from delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.**
 - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with State of California Department of Parks and Recreation
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
3. The cost for curation is the responsibility of the property owner.

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
3. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection 5.

D. Final Monitoring Report(s)

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

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Passed by the Council of The City of San Diego on JUN 27 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 27 2016.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By  Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 310563