



County of San Diego

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May 27, 2021

MITIGATED NEGATIVE DECLARATION

PROJECT NAME: Moosa Creek Riparian Restoration Project

RECORD ID: PDS2021-LDGRMJ-30327

ENVIRONMENTAL LOG NO.: PDS2021-ER-02-002

**This Document is Considered Draft Until it is Adopted by the Appropriate
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a) Initial Study – Environmental Checklist Form
 - b) Technical Studies and Reports as referenced
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the Project plans or proposals made by or agreed to by the Project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

ANY PERMIT: *(Prior to the approval of any plan, issuance of any permit, and prior to occupancy or use of the premises in reliance of this permit).*

(BIOLOGY)

BIO#1–HABITAT MANAGEMENT PLAN

INTENT: In order to provide for the restoration and long-term management of the proposed open space preserve, a Riparian Restoration Habitat Management Plan shall be prepared and implemented. **DESCRIPTION OF REQUIREMENT:** Submit to and receive approval from the Director of PDS, a Riparian Restoration Habitat Management Plan dated December 14, 2020. **DOCUMENTATION:** The applicant shall prepare the Riparian Restoration Habitat Management Plan and submit it to the *[PDS, ZONING]* and pay all applicable review fees. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit the Riparian Restoration Habitat Management Plan shall be approved. **MONITORING:** The *[PDS, PPD] [DPR, GPM]* shall review the Riparian Restoration Habitat Management Plan for compliance with this condition.

BIO#2–OPEN SPACE SIGNAGE [PDS, FEE]

INTENT: In order to protect the proposed open space easement from entry, informational signs shall be installed. **DESCRIPTION OF REQUIREMENT:** Provide evidence that open space signs have been placed to the satisfaction of the U.S. Fish and Wildlife Services (USFWS). **DOCUMENTATION:** The applicant shall install the signs as indicated above and provide evidence that the open space signs have been placed to the satisfaction of the U.S. Fish and Wildlife Service (USFWS). **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the open space signs shall be installed. **MONITORING:** The *[PDS, PCC]* shall review the evidence for compliance with this condition.

(HAZARDS)

HAZ#1–STRUCTURE AND DEBRIS REMOVAL [PDS, FEE]

INTENT: In order to comply with the proposed project design for PDS2021-LDGRMJ-30327, structure(s) to be removed and debris pile(s) identified on the approved plan set shall be remodeled/demolished/removed, as applicable. Additional debris located throughout the project site shall also be properly disposed of. **DESCRIPTION OF REQUIREMENT:** The structure(s)/debris pile(s) shown on the approved plan set shall be remodeled/demolished/removed. **DOCUMENTATION:** The applicant shall submit to the *[PDS, PPD]* a signed stamped statement from a registered professional; Engineer, Surveyor, Contractor, which states, that the structure(s)/debris pile(s) have been

remodeled/demolished/removed. The letter report shall also include before and after pictures of the area and structure. **TIMING:** Prior to the approval of any plan, issuance of any permit (excluding demolition permit), and prior to approval of the map the applicant shall comply with this condition. **MONITORING:** The [PDS, PPD] shall review the statement and, photos, and any additional evidence for compliance with this condition.

DEH#1–WELL DESTRUCTION

INTENT: In order to ensure that the four water well located on the property are removed, and to comply with the [County Regulatory Code Section 67.431](#), all unused and non-operational wells shall be properly destroyed. **DESCRIPTION OF REQUIREMENT:** All unused wells shall be properly destroyed by a California C-57 licensed well driller. A Well Destruction Permit shall be obtained from the [DEH, LWQ] and all applicable inspection fees shall be paid. **DOCUMENTATION:** The applicant shall provide copies of the Well Destruction Logs to [DEH, LWQ] upon completion of the well destruction. **TIMING:** Prior to the approval of any plan, issuance of any permit (Excluding Well Destruction Permit), and prior to occupancy or use of the premises in reliance of this permit, the applicant shall destroy the well. **MONITORING:** Upon submittal of the well destruction logs, [DEH, LWQ] shall perform a field inspection to verify that the well has been properly destroyed. **GRADING PERMIT:** *(Prior to approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits)*

(BIOLOGY)

BIO#3–WETLAND PERMITS [PDS, FEE X2]

INTENT: In order to comply with the State and Federal Regulations, the following agency permits, or verification that they are not required shall be obtained. **DESCRIPTION OF REQUIREMENT:** The following permit and agreement shall be obtained, or provide evidence from the respective resource agency satisfactory to the Director of PDS that such an agreement or permit is not required:

- a. A Clean Water Act, Section 401/404 permit issued by the California Regional Water Quality Control Board and the U.S. Army Corps of Engineers for all project related disturbances of waters of the U.S. and/or associated wetlands.
- b. A Section 1602 Streambed Alteration Agreement issued by the [California Department of Fish and Wildlife](#) for all project related disturbances of any streambed.

DOCUMENTATION: The applicant shall consult each agency to determine if a permit or agreement is required. Upon completion of the agency review of this project, the applicant shall provide a copy of the permit(s)/agreement(s),

or evidence from each agency that such an agreement or permit is not required to the [PDS, PCC] for compliance. **TIMING:** Prior to approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** The [PDS, PCC] shall review the permits/agreement for compliance with this condition. Copies of these permits should be transmitted to the [DPW, ESU], for implementation on the grading plans.

(CULTURAL RESOURCES)

1. CUL-1- Archaeological Monitoring

CULT#1 - ARCHAEOLOGICAL AND TRIBAL MONITORING

INTENT: In order to mitigate for potential impacts to undiscovered buried archaeological resources and human remains, an Archaeological Monitoring Program and potential Data Recovery Program shall be implemented pursuant to the County of San Diego Guidelines for Determining Significance for Cultural Resources and the California Environmental Quality Act (CEQA). **DESCRIPTION OF**

REQUIREMENT: A County Approved Principal Investigator (PI) known as the "Project Archaeologist," shall be contracted to perform archaeological monitoring and a potential data recovery program during all grading, clearing, grubbing, trenching, and construction activities. The archaeological monitoring program shall include the following:

- a. The Project Archaeologist shall perform the monitoring duties before, during and after construction pursuant to the most current version of the County of San Diego Guidelines for Determining Significance and Report Format and Requirements for Cultural Resources. The Project Archaeologist and Luiseno Native American monitor shall also evaluate fill soils to determine that they are clean of cultural resources. The contract or letter of acceptance provided to the County shall include an agreement that the archaeological monitoring will be completed, and a Memorandum of Understanding (MOU) between the Project Archaeologist and the County of San Diego shall be executed. The contract or letter of acceptance shall include a cost estimate for the monitoring work and reporting.
- b. The Project Archeologist shall provide evidence that a Luiseno Native American has been contracted by the property owner or their representative to perform Native American Monitoring for the project.
- c. The cost of the monitoring shall be added to the grading bonds or bonded separately.

DOCUMENTATION: The applicant shall provide a copy of the Archaeological Monitoring Contract or letter of acceptance, copy of the Tribal monitoring contract, cost estimate, and MOU to [PDS, PPD]. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate. **TIMING:** Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** [PDS, PPD] shall review the contracts or letter of acceptance, MOU and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to [PDS, PPD] for inclusion in the grading bond cost estimate, and grading bonds and the grading monitoring requirement shall be made a condition of the issuance of the grading or construction permit.

2. CUL-2 – Cultural Resources Treatment Agreement and Preservation Plan CULT#2 - CULTURAL RESOURCES TREATMENT AGREEMENT AND PRESERVATION PLAN

INTENT: In order to mitigate for impacts to Traditional Cultural Properties, develop and enter into a Cultural Resources Treatment Agreement and Preservation Plan with culturally-affiliated Tribes. **DESCRIPTION OF REQUIREMENT:** A single Cultural Resources Treatment Agreement and Preservation Plan shall be developed between the applicant or their representative, the County of San Diego, and culturally-affiliated Tribes. The Cultural Resources Treatment Agreement and Preservation Plan shall be reviewed and agreed to by the County prior to final signature and authorization. The Cultural Resources Treatment Agreement and Preservation Plan shall include but is not limited to the following:

- a. Parties entering into the agreement and contact information.
- b. Responsibilities of the Property Owner or their representative, Principal Investigator, archaeological monitors, Luiseno Native American monitors, and consulting tribes.
- c. Requirements of the Archaeological Monitoring Program including unanticipated discoveries. The requirements shall address grading and grubbing requirements including controlled grading and controlled vegetation removal in areas of cultural sensitivity, and analysis of identified cultural materials.
- d. Excavated soils. Soils are to stay onsite. Consultation with the culturally-affiliated tribes shall occur should excavated soils need to be exported offsite.
- e. Treatment of identified Native American cultural materials. Any identified Native American cultural materials with the exception of Native American human remains and associated grave goods (described in item g below) are to be reburied onsite.

- f. Deed restriction. Details of the requirement for a deed restriction for reburial of identified Native American cultural materials. The requirements shall address protection of Native American cultural materials, access, and responsibilities for management and maintenance of the open space.
- g. Treatment of Native American human remains and associated grave goods.
- h. Confidentiality of cultural information including location and data.
- i. Negotiation of disagreements should they arise during the implementation of the Agreement and Preservation Plan.
- j. Regulations that apply to cultural resources that have been identified or may be identified during project construction.

DOCUMENTATION: A copy of the implemented agreement shall be submitted to the [PDS, PPD] for approval. **TIMING:** Prior to any clearing, grubbing, trenching, grading, or any land disturbances. **MONITORING:** The [PDS, PPD] shall review the implemented agreement for compliance this condition.

(FLOOD)

DRNG#1-FLOODPLAIN COMPLIANCE

INTENT: As required by the Code of Federal Regulations (CFR) and to protect persons and property from harm in an area of special flood hazard in the unincorporated County by ensuring compliance with the more restrictive of the [Flood Damage Prevention Ordinance \(FDPO\), Section 811.101](#), et seq. of the [San Diego County Code, of Regulatory Ordinances \(County Code\)](#) or the [National Flood Insurance Program requirements set forth at 44 Code of Federal Regulations, \(CFR\) Section 60.1 et seq.](#) References to the 44 CFR Section 60.1 et seq. are for convenience only and are not intended to limit the applicability of other federal laws or regulations that comprise the National Flood Insurance Program. **DESCRIPTION OF REQUIREMENT:** The project site is located within 'A' FEMA Flood Zone as indicated on FEMA Flood Insurance Rate Map (FIRM) map panels 06073C and 0490G. Zones are required to be developed and used in accordance with restrictions set forth in the County's Flood Damage Prevention Ordinance for "special flood hazard areas." These Moosa Creek, PDS2021-LDGRMJ-30327, requirements were developed to allow for continued County participation in the National Flood Insurance Program (NFIP) in accordance with 44 CFR 60.1 et seq. Consistent with these requirements, the following must be complied with:

- a. Applicant submitted a Letter of Map Revision (LOMR) Case Number 21-09-0926P to FEMA March 17, 2021 to bring the Effective mapping to the current condition. A Conditional Letter of Map Revision (CLOMR) may be required pending FEMA approval on LOMR (case number 21-09-0926P).
- b. Determine the base flood elevation (BFE) and flood plain boundary to the satisfaction of the County Flood Plain Administrator and through hydraulic analysis performed by a licensed engineer in accordance with standard engineering practices and requirements by FEMA. Demonstrate compliance with all NFIP and FDPO requirements to the satisfaction of the County Flood Plain Administrator and DPW Flood Control.
- c. Demonstrate that no restoration work made within the FEMA or County mapped floodplain for Moosa Creek would result in an increase in current flood conditions greater than one (1) foot flood levels during the occurrence of the base flood on any public right-of-way or off-site property.
- d. Any ultimate fencing proposed in the floodplain, (not applicable to temporary grading fencing), will need to be designed to be in compliance with the Flood Damage Prevention Ordinance if it is being located across the floodplain. This fencing will need to be to the satisfaction of the County Flood Plain Administrator and DPW Flood Control.
- e. If it is demonstrated that the post-project BFEs increase the pre-project BFEs by more than one 1 foot per FEMA regulations, a Conditional Letter of Map Revision (CLOMR) from FEMA will be required.

NOTE: If after hydraulic analysis and grading plan review it is determined that changes to lot design are needed or the design will impact off-site properties and/or necessitate obtaining off-site easements or waivers for drainage or grading purposes, then the applicant may be required to revise their project and go through the grading discretionary approval process again.

TIMING: Prior to commencement of any grading activity. **MONITORING:** The [PDS, LDR, DPW, FCE] shall review the hydraulic analysis, and associated plans and maps for compliance with this condition.

Grading Plan Notes:

The following notes shall be placed on the Grading Plan and made conditions of the issuance of said permits. A word document has been provided with the grading plan note language.

PRE-CONSTRUCTION GRADING AND/OR IMPROVEMENTS: *(Prior to any clearing, grubbing, trenching, grading, or any land disturbances.)*

(BIOLOGICAL RESOURCES)

BIO#4-RESOURCE AVOIDANCE [PDS, FEE X2]

INTENT: In order to avoid impacts to riparian birds, which are a sensitive biological resource pursuant to the Migratory Bird Treaty Act (MBTA) and the County's Guidelines for Determining Significance for Biological Resources, a Resource Avoidance Area (RAA), shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading such that none will be allowed within 300 feet of riparian bird nesting habitat during the breeding season of the riparian bird within RAA as indicated on these plans. The breeding season is defined as occurring between March 15 and September 15. The Director of PDS [PDS, PCC] may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Wildlife, provided that no riparian birds are present in the vicinity of the brushing, clearing, or grading as demonstrated by a survey completed no more than 72-hours prior to clearing or grading. **DOCUMENTATION:** The applicant shall provide a letter of agreement with this condition; alternatively, the applicant may submit a written request for waiver of this condition. Although, no grading shall occur within the RAA until concurrence is received from the County and the Wildlife Agencies. **TIMING:** Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. **MONITORING:** The [DPW, PDCI] shall not allow any grading in the RAA during the specified dates, unless a concurrence from the [PDS, PCC] is received. The [PDS, PCC] shall review the concurrence letter.

(CULTURAL RESOURCES)

CULT#GR-1 - ARCHAEOLOGICAL AND TRIBAL MONITORING - PRECONSTRUCTION MEETING

INTENT: In order to comply with the County of San Diego Guidelines for Significance – Cultural Resources, an Archaeological Monitoring Program shall be implemented.

DESCRIPTION OF REQUIREMENT: The County approved Project Archaeologist and Luiseno Native American Monitor shall attend the pre-construction meeting with the contractors to explain and coordinate the requirements of the archaeological monitoring program. The Project Archaeologist and Luiseno Native American Monitor shall monitor the original cutting of previously undisturbed deposits in all areas identified for development including off-site improvements. The Project Archaeologist and Luiseno Native American monitor shall also evaluate fill soils to determine that they are clean of cultural resources. The archaeological monitoring program shall comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources. **DOCUMENTATION:** The applicant shall have the contracted Project Archeologist and Luiseno Native American attend the preconstruction meeting to explain the monitoring requirements. **TIMING:** Prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** The [DPW, PDCI] shall confirm the attendance of the approved Project Archaeologist.

DURING CONSTRUCTION: (The following actions shall occur throughout the duration of the grading construction).

(AIR QUALITY AND GREENHOUSE GAS)

#1 Fugitive Dust

INTENT: In order to mitigate for fugitive dust during construction activities.

DESCRIPTION OF REQUIREMENT: The project applicant or designee shall comply with the San Diego County Air Pollution Control District (SDAPCD) Rule 55 and County Code Section 87.428 (Grading Ordinance), and implement the following dust control measures during construction:

- a. Maintain at least 12 inches of freeboard, cover loads, or secure material by watering or treating in all haul/dump trucks entering or leaving the site with soil import/export material.
- b. Water construction areas between dozer/scrapper passes and on any unpaved roads within the project limits a minimum of two (2) times daily.
- c. Terminate grading activities in winds in excess of 25 miles per hour (mph).
- d. Use sweepers and water trucks to control dust and debris at public street access points and approach routes to construction sites.
- e. Stabilize dirt storage piles with chemical binders, tarps, fencing, or other suppression measures.

- f. Stabilize internal construction-roadways by paving, chip sealing or chemicals after rough grading.
- g. Enforce a 15-mph speed limit on unpaved surfaces.
- h. Hydroseed, landscape, or develop disturbed areas as quickly as possible and as directed by the County and/or SDAPCD to reduce dust generation.
- i. Visible roadway dust as a result of active operations, spillage from transport trucks, erosion, or track-out/carry-out shall be minimized by the use of track-out grates, gravel beds, or wheel-washing at each egress point and be removed at the conclusion of each workday when active operations cease, or every 24 hours for continuous operations. If a street sweeper is used to remove any track-out/carry-out, only respirable particulate matter (PM₁₀) - efficient street sweepers certified to meet the most current South Coast Air Quality Management District (SCAQMD) Rule 1186 requirements shall be used. The use of blowers for removal of track-out/carry-out is prohibited under any circumstances.

DOCUMENTATION: The applicant or designee shall comply with the Air Quality requirements of this condition. **TIMING:** The following actions shall occur throughout the duration of construction and grading. **MONITORING:** The [DPW, PDC] shall make sure that the grading contractor complies with the Air Quality requirements of this condition. The [DPW, PDC] shall contact the [PDS, PCC] if the applicant fails to comply with this condition.

#2 Construction Exhaust Emissions

INTENT: In order to mitigate for exhaust emissions during construction activities.

DESCRIPTION OF REQUIREMENT: The project shall comply with the following Air Quality measures:

- a. The project shall require the construction contractor to provide a construction fleet that uses heavy-duty diesel-powered equipment equipped with either EPA or California Air Resources Board (CARB) Tier 4 diesel engines. An exemption from these requirements may be granted by the County if the applicant documents that equipment with the required tier is not reasonably available and corresponding reductions in criteria air pollutant emissions are achieved from other construction equipment. Before an exemption may be considered by the County, the applicant shall be required to demonstrate that three construction fleet owners/operators in the San Diego Region were contacted and that those owners/operators confirmed Tier 4 equipment could not be located within the San Diego region.

- b. The project shall require the construction contractor to equip all heavy-duty diesel-powered construction equipment with diesel particulate filters (DPFs).
- c. Construction equipment shall be outfitted with best available control technology (BACT) with Tier 4 diesel engines and DPFs certified by the California Air Resources Board. A copy of each unit's BACT documentation shall be provided to the County of San Diego at the time of mobilization of each applicable unit of equipment.

DOCUMENTATION: The applicant or designee shall comply with the Air Quality and Greenhouse Gas requirements of this condition. The applicant shall show compliance with this measure by providing the construction bid/estimate from the construction contractor that will be used. **TIMING:** The following actions shall occur throughout the duration of construction and grading. **MONITORING:** The [DPW, PDCI] shall make sure that the grading contractor complies with the Air Quality requirements of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the applicant fails to comply with this condition.

#3 Sustainability Measures

INTENT: In order to promote sustainable project designs. **DESCRIPTION OF REQUIREMENT:** The project shall comply with the following sustainability measures:

- a. No natural gas use during construction activities.

DOCUMENTATION: The applicant shall comply with the requirements of this condition. **TIMING:** The following actions shall occur throughout the duration of construction and grading. **MONITORING:** The [DPW, PDCI] shall make sure that the grading contractor complies with the Air Quality requirements of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the applicant fails to comply with this condition.

(CULTURAL RESOURCES)

CULT#GR-2 - ARCHAEOLOGICAL AND TRIBAL MONITORING – DURING CONSTRUCTION

INTENT: In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, a Cultural Resource Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist and Luiseno Native American Monitor shall monitor the original cutting of previously undisturbed deposits in all areas identified for development including off-site improvements. The archaeological monitoring program shall comply with the following requirements during earth-disturbing activities:

- a. **Monitoring.** During the original cutting of previously undisturbed deposits, the Project Archaeologist and Luiseno Native American Monitor shall be onsite as determined necessary by the Project Archaeologist. Inspections will vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features. The frequency and location of inspections will be determined by the Project Archaeologist in consultation with the Luiseno Native American Monitor. Monitoring of the cutting of previously disturbed deposits will be determined by the Project Archaeologist in consultation with the Luiseno Native American Monitor.
- b. **Inadvertent Discoveries.** If during ground disturbance activities, unique cultural resources are discovered that were not assessed by the archaeological report and/or environmental assessment prior to project approval, the following procedures shall be followed:
 1. The Project Archaeologist or the Luiseno Native American monitor shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources.
 2. At the time of discovery, the Project Archaeologist shall contact the PDS Staff Archaeologist and culturally-affiliated tribes as identified in the Treatment Agreement and Preservation Plan.
 3. All ground disturbance activities within 100 feet of the discovered cultural resources shall be halted until a meeting is convened between the developer, the project archaeologist, tribal monitor(s), and the tribal representative(s) to discuss the significance of the find. Optionally, the County Archaeologist may attend the meeting to discuss the significance of the find.
 4. After consultation with the developer, project archaeologist, tribal monitor(s), and tribal representative(s), a decision shall be made, with the concurrence of the County Archaeologist, as to the appropriate mitigation (documentation, recovery, avoidance, etc.) for the identified cultural resources.
 5. Construction activities shall not resume in the area of discovery until an agreement has been reached by all parties as to appropriate mitigation. Work shall be allowed to continue outside of the buffer area and shall be monitored.
 6. Isolates and clearly non-significant deposits shall be minimally documented in the field. The isolates and/or non-significant deposits

shall be reburied onsite as identified in the Treatment Agreement and Preservation Plan.

7. Treatment and avoidance of the newly discovered resources shall be consistent with the Treatment Agreement and Preservation Plan (CUL-2) entered into with the appropriate tribes. This may include avoidance of the cultural resources through project design, in-place preservation of cultural resources located in native soils and/or re-burial on the Project property so they are not subject to further disturbance in perpetuity.
8. If cultural resources are identified, one or more of the following treatments, in order of preference, shall be employed:
 - a. Preservation in place of the Cultural Resources, if feasible. Preservation in place means avoiding the resources, leaving them in place where they were found with no development affecting the integrity of the resources.
 - b. Reburial of the resources on the project property. The measures for reburial shall include, at least, the following:
 - Measures and provisions to protect the future reburial area from any future impacts in perpetuity.
 - Reburial shall not occur until all legally required cataloging and basic recordation have been completed, with an exception that sacred items, burial goods and Native American human remains are excluded.
 - Any reburial process shall be culturally appropriate.
 - Listing of contents and location of the reburial shall be included in the confidential appendix of the Monitoring Report.
 - The Monitoring Report shall be filed with the County under a confidential cover and is not subject to Public Records Requests.
 - c. If preservation in place or reburial is not feasible, a Research Design and Data Recovery Program (Program) shall be prepared by the Project Archaeologist in consultation with the Tribe and Luiseno Native American Monitor and approved by the County Archaeologist prior to implementation. There shall be no destructive or invasive testing on sacred items, burial goods and Native American human remains. Results concerning finds of any inadvertent discoveries shall be included in the Monitoring Report.

Pursuant to Calif. Pub. Res. Code § 21083.2(b) avoidance is the preferred method of preservation for archaeological resources and cultural resources. If the landowner and the Tribe(s) cannot agree on the significance or the mitigation for the archaeological or cultural resources, these issues will be presented to the Planning & Development Services Director for decision. The Planning & Development Services Director shall make the determination based on the provisions of the California Environmental Quality Act with respect to archaeological resources, recommendations of the project archeologist and shall take into account the cultural and religious principles and practices of the Tribe.

c. **Human Remains.** If any human remains are discovered:

1. The Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist.
2. Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin. If the human remains are to be taken offsite for evaluation, they shall be accompanied by the Luiseno Native American monitor.
3. If the remains are determined to be of Native American origin, the NAHC shall immediately contact the Most Likely Descendant (MLD).
4. The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted.
5. The MLD may with the permission of the landowner, or their authorized representative, inspect the site of the discovery of the Native American human remains and may recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendants shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.
6. Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered.

- d. **Fill Soils.** The Project Archaeologist and Luiseno Native American monitor shall evaluate fill soils to determine that they are clean of cultural resources.
- e. **Monthly Reporting.** The Project Archaeologist shall submit monthly status reports to the Director of Planning and Development Services starting from the date of the Notice to Proceed to termination of implementation of the archaeological monitoring program. The report shall briefly summarize all activities during the period and the status of progress on overall plan implementation. Upon completion of the implementation phase, a final report shall be submitted describing the plan compliance procedures and site conditions before and after construction.

DOCUMENTATION: The applicant shall implement the Archaeological Monitoring Program pursuant to this condition. **TIMING:** The following actions shall occur throughout the duration of the earth disturbing activities. **MONITORING:** The [DPW, PDCI] shall make sure that the Project Archeologist is on-site performing the monitoring duties of this condition. The [DPW, PDCI] shall contact the [PDS, PPD] if the Project Archeologist or applicant fails to comply with this condition.

(NOISE)

NOISE#1. RESOURCE AVOIDANCE: [DPW, PDCI].

INTENT: In order to prevent inadvertent disturbance during the breeding season of the least Bell's Vireo (March 15 through September 15), the minimum distances listed herein for each phase should be maintained from the center of the work area to active nest locations. **DESCRIPTION OF REQUIREMENT:** The minimum distances listed herein for each phase, during all grading, clearing, grubbing, trenching, and construction activities, should be maintained from the center of the work area to active nest locations:

- a. At least 275 feet from active nests during Demolition, Debris Removal, and Disposal
- b. At least 265 feet from active nests during Clearing and Grubbing
- c. At least 235 feet from active nests during Site Grading
- d. At least 145 feet from active nests during Planting
- e. At least 220 feet from active nests during Hydroseeding

DOCUMENTATION: The applicant shall comply with the temporary construction noise measures and the County Noise Ordinance as described within this condition.

TIMING: The following actions shall occur throughout the duration of the grading construction and construction equipment operations, during the breeding season of the least Bell's Vireo (March 15 through September 15). **MONITORING:** The [DPW,

PDCI] shall make sure that the grading contractor complies with the construction noise control measures of this condition. The [*DPW, PDCI*] shall contact the [*PDS, PPD*] if the applicant fails to comply with this condition.

NOISE#2. TEMPORARY CONSTRUCTION NOISE: [*DPW, PDCI*].

INTENT: In order to minimize temporary construction noise for grading operations associated with PDS2021-LDGRMJ-30327 and to comply with County Noise Ordinance 36.408 and 36.409. **DESCRIPTION OF REQUIREMENT:** The project shall comply with the following temporary construction noise control measures and shall comply with the eight-hour average sound level of 75 dBA pursuant to Noise Ordinance Section 36.408 & 36.409:

- a. Limit noise-producing construction activities to the hours of 7 a.m. to 7 p.m., Mondays through Saturdays, with construction prohibited on Sundays and holidays, as per Section 36.408 of the County of San Diego Noise Ordinance.
- b. Maintain equipment in proper working order, equipped with effective mufflers that are in good condition and appropriate for the equipment.
- c. Avoid unnecessary idling by turning off equipment while not in use.
- d. Equipment used in construction should be maintained in proper operating condition, and all loads should be properly secured, to prevent rattling and banging.
- e. Configure traffic movement to minimize the use of back up alarm, as feasible.
- f. Equipment staging areas should be placed at locations away farthest away from noise sensitive receivers as deemed feasible.
- g. Temporary construction equipment operations shall comply with the County Noise Ordinance Sections 36.408, 409, and 410.
- h. Establish a “Noise Disturbance Coordinator” for the Project who would be responsible for responding to any complaints about construction noise and establishing reasonable actions to correct the problem.

DOCUMENTATION: The applicant shall comply with the temporary construction noise measures and the County Noise Ordinance as described within this condition.

TIMING: The following actions shall occur throughout the duration of the grading construction and construction equipment operations. **MONITORING:** The [*DPW, PDCI*] shall make sure that the grading contractor complies with the construction noise control measures of this condition. The [*DPW, PDCI*] shall contact the [*PDS, PPD*] if the applicant fails to comply with this condition.

(HAZARDS)

NOTICE: IN THE EVENT THAT ANY ACTIVITY, INCLUDING EARTHMOVING OR CONSTRUCTION, DISCOVERS THE PRESENCE OF UNDERGROUND STORAGE TANKS, SEPTIC TANKS, WELLS, SITE DEBRIS, AND/OR CONTAMINATED SOILS ON-SITE, THE CONTRACTOR AND/OR PROPERTY OWNER SHALL NOTIFY THE COUNTY OF SAN DIEGO PLANNING & DEVELOPMENT SERVICES DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENTAL HEALTH. THE PRESENCE OF CONTAMINATED SOILS WILL REQUIRE SOIL TESTING AND REMEDIATION IN ACCORDANCE WITH STANDARD COUNTY PROCEDURES. THIS PROCESS WILL BE DETERMINED ONCE THE COUNTY IS NOTIFIED OF THE PRESENCE OF CONTAMINATED SOILS.

(PALEONTOLOGICAL RESOURCES)**PALEO#GR-1 - PALEONTOLOGICAL MONITORING**

INTENT: In order to comply with the County of San Diego Significance Guidelines for Paleontological Resources, a Paleontological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** This project site has marginal levels of sensitive Paleontological resources. All grading activities are subject to the [County of San Diego Grading Ordinance Section 87.430](#), if any significant resources (Fossils) are encountered during grading activities.

- a. The grading contractor is responsible to monitor for paleontological resources during all grading activities. If any fossils are found greater than 12 inches in any dimension, stop all grading activities and contact PDS before continuing grading operations.
- b. If any paleontological resources are discovered and salvaged, the monitoring, recovery, and subsequent work determined necessary shall be completed by or under the supervision of a Qualified Paleontologist pursuant to the [San Diego County Guidelines for Determining Significance for Paleontological Resources](#).

TIMING: The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDC] shall make sure that the grading contractor is on-site performing the Monitoring duties of this condition. The [DPW, PDC] shall contact PDS if the grading contractor or applicant fails to comply with this condition.

ROUGH GRADING: *(Prior to rough grading approval).*

(BIOLOGICAL RESOURCES)**BIO#5-CONSERVATION EASEMENT [PDS, FEE X 2]**

INTENT: In order to protect sensitive biological resources, a conservation easement shall be granted. **DESCRIPTION OF REQUIREMENT:** Provide evidence that the conservation easement has been recorded with U.S. Fish and Wildlife Service (USFWS). **DOCUMENTATION:** The applicant shall provide evidence that the conservation easement has been dedicated to the satisfaction of the U.S. Fish and Wildlife Service (USFWS). **TIMING:** Prior to rough grading release, the easement shall be dedicated. **MONITORING:** The [PDS, PCC] shall review the evidence for compliance with this condition.

(CULTURAL RESOURCES)

CULT#GR-3 - ARCHAEOLOGICAL MONITORING – ROUGH GRADING

INTENT: In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, an Archaeological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist shall prepare one of the following reports upon completion of the earth-disturbing activities that require monitoring:

- a. **No Archaeological Resources Encountered.** If no archaeological resources are encountered during earth-disturbing activities, then submit a final Negative Monitoring Report substantiating that earth-disturbing activities are completed and no cultural resources were encountered. Archaeological monitoring logs showing the date and time that the monitor was on site and any comments from the Native American Monitor must be included in the Negative Monitoring Report.
- b. **Archaeological Resources Encountered.** If archaeological resources were encountered during the earth disturbing activities, the Project Archaeologist shall provide an Archaeological Monitoring Report stating that the field monitoring activities have been completed, and that resources have been encountered. The report shall detail all cultural artifacts and deposits discovered during monitoring and the anticipated time schedule for completion of reburial and/or repatriation phase of the monitoring.

DOCUMENTATION: The applicant shall submit the Archaeological Monitoring Report to [PDS, PPD] for review and approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center and any culturally-affiliated Tribe who requests a copy. **TIMING:** Upon completion of all earth-disturbing activities, and prior to Rough Grading Final Inspection (Grading Ordinance SEC 87.421.a.2), the report shall be completed. **MONITORING:** [PDS, PPD] shall review the report or field monitoring memo for compliance with the project MMRP, and inform [DPW, PDCI] that the requirement is completed.

(PALEONTOLOGICAL RESOURCES)**PALEO#GR-2 PALEONTOLOGICAL MONITORING**

INTENT: In order to comply with the County of San Diego Significance and Report Format Guidelines for Paleontological Resources, a Paleontological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** One of the following letters shall be performed upon completion of the grading activities that require monitoring:

- a. If no paleontological resources were discovered, submit a “No Fossils Found” letter from the grading contractor to PDS stating that the monitoring has been completed and that no fossils were discovered, and including the names and signatures from the fossil monitors. The letter shall be in the format of Attachment E of the [County of San Diego Guidelines for Determining Significance for Paleontological Resources](#).
- b. If paleontological resources were encountered during grading, a letter shall be prepared stating that the field grading monitoring activities have been completed, and that resources have been encountered. The letter shall detail the anticipated time schedule for completion of the curation phase of the monitoring.

DOCUMENTATION: The applicant shall submit the letter report to PDS for review and approval. **TIMING:** Upon completion of all grading activities, and prior to Rough Grading Final Inspection ([Grading Ordinance SEC 87.421.a.2](#)), the letter report shall be completed. **MONITORING:** PDS shall review the final negative letter report or field monitoring memo for compliance with the project MMRP, and inform [DPW, PDC] that the requirement is completed.

FINAL GRADING RELEASE: *(Prior to any occupancy, final grading release, or use of the premises in reliance of this permit).*

(BIOLOGICAL RESOURCES)**BIO#6–OPEN SPACE SIGNAGE [PDS, FEE]**

INTENT: In order to protect the easement from entry, the signage shall be installed. **DESCRIPTION OF REQUIREMENT:** Evidence shall be provided that the permanent open space signs have been placed to the satisfaction of the U.S. Fish and Wildlife Service (USFWS). **DOCUMENTATION:** The applicant shall install the signage and provide evidence that it has been installed to the satisfaction of the U.S. Fish and Wildlife Service (USFWS). **TIMING:** Prior to the occupancy of any structure or use of the premises and prior to Final Grading Release ([Grading Ordinance Sec. 87.421.a.3](#)) the signage shall be installed. **MONITORING:** The [PDS, PCC] shall review the evidence for compliance with this condition.

(CULTURAL RESOURCES)**CULT#GR-4 - ARCHAEOLOGICAL MONITORING – FINAL GRADING**

INTENT: In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, an Archaeological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist shall prepare a final report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program if cultural resources were encountered during earth-disturbing activities. The report shall include the following, if applicable:

- a. Department of Parks and Recreation Primary and Archaeological Site forms.
- b. Daily Monitoring Logs
- c. Evidence that all Native American cultural materials in order of preference have been conveyed as follows:
 - (1) Evidence that all prehistoric materials collected during the archaeological monitoring program have been reburied onsite.

or
 - (2) Evidence that all prehistoric materials collected during the grading monitoring program have been repatriated to a Native American group of appropriate tribal affinity and shall be accompanied by payment of the fees necessary, if required. Evidence shall be in the form of a letter from the Native American tribe to whom the cultural resources have been repatriated identifying that the archaeological materials have been received.
- d. Evidence that all historic cultural materials have been conveyed as follows:

Historic materials shall be curated at a San Diego curation facility and shall not be curated at a Tribal curation facility or repatriated. The collections and associated records, including title, shall be transferred to the San Diego curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the historic materials have been received and that all fees have been paid.
- e. If no cultural resources are discovered, a Negative Monitoring Report must be submitted stating that the archaeological monitoring activities have been completed. Grading Monitoring Logs must be submitted with the negative monitoring report.

DOCUMENTATION: The applicant's archaeologist shall prepare the final report and submit it to *[PDS, PPD]* for approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center (SCIC) and any culturally-affiliated Tribe who requests a copy. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final report shall be prepared. **MONITORING:** *[PDS, PPD]* shall review the final report for compliance with this condition and the report format guidelines. Upon acceptance of the report, *[PDS, PPD]* shall inform *[PDS, LDR]* and *[DPW, PDCI]*, that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then *[PDS, PPD]* shall inform *[PDS or DPW FISCAL]* to release the bond back to the applicant.

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted, and above California Environmental Quality Act findings made by the:

Director of Planning & Development Services

on _____, 2021

Diana Perez, Land Development Project Manager
Land Development Division

DP:SM:jr