



County of San Diego

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SUBSEQUENT MITIGATED NEGATIVE DECLARATION

January 16, 2018**June 21, 2019**

PROJECT NAME: PHAP VUONG MONASTERY MAJOR USE PERMIT

RECORD ID: PDS2014-MUP-14-010

ENVIRONMENTAL LOG NO.: ER01-08-051A

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

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

- a. Environmental Review Update Checklist Form and referenced extended studies for Phap Vuong Monastery Major Use Permit
- b. Ordinance Compliance Checklist for Phap Vuong Monastery Major Use Permit
- c. Negative Declaration, for Phap Vuong Monastery Major Use Permit, dated October 9, 2003 with approval date May 27, 2004.

1. California Environmental Quality Act Subsequent Mitigated Negative Declaration Findings:

Find, that this Subsequent 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 Subsequent 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 Subsequent 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 Review Update Checklist Form For Projects with Previously Approved Environmental Documents for the rationale for requiring the following measures:

A. TRANSPORTATION

1. The payment of the Transportation Impact Fee, which will be required at issuance of building permits, in combination with other components of this program, will mitigate potential cumulative traffic impacts to less than significant.

B. BIOLOGY

PRE-CONSTRUCTION MEETING: (Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances.)

BIO#1– BREEDING SEASON AVOIDANCE (AVIAN SPECIES) [PDS, FEE X2]

INTENT: In order to avoid direct impacts to sensitive avian species (eg. California gnatcatchers (CAGN), raptors, and migratory birds), which are sensitive biological resources pursuant to RPO, CEQA, and Migratory Bird Treaty Act (MBTA), avian breeding avoidance measures shall be implemented and a Resource Avoidance Area (RAA) implemented on all plans. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing, and/or grading during the avian breeding season (February 1 to September 15) except as allowed by this condition. All grading permits, improvement plans, and the final map shall state the same. If vegetation must be removed during the avian breeding season, a qualified biologist must conduct a nesting bird survey of potentially suitable nesting vegetation prior to removal. Surveys will be conducted no more than three (3) days prior to scheduled removals. If active nests are identified, the biologist will establish a RAA of 300 feet (500 feet for raptors) around the vegetation containing the active nest(s). The vegetation containing the active nest will not be removed, and no brushing, clearing, and/or grading will occur within the established RAA until a qualified biologist has determined that the nest is no longer active (i.e., the juveniles are surviving independent from the nest). If clearing is not conducted within three days of a negative survey, the nesting survey must be repeated to confirm the absence of nesting birds. The Director of PDS [PDS, PCC] may waive this condition, through written concurrence from the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife (the "Wildlife Agencies"), provided that no sensitive avian species are present in the vicinity of the brushing, 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 brushing, clearing, or 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, PDC] 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."

BIO#2—CALIFORNIA GNATCATCHER BREEDING AVOIDANCE [PDS, FEE X2]

INTENT: In order to avoid impacts to California gnatcatchers (CAGN), which is a sensitive biological resource pursuant to RPO, CEQA and MBTA, avian breeding avoidance measures shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** To mitigate for potential impacts to the California gnatcatcher during construction, the following measures shall be required: No clearing, grubbing, grading, or other construction activities shall occur within 500 feet of Diegan coastal sage scrub habitat between March 1 and August 15 (CAGN breeding season) until the following requirements have been met:

- a. A qualified biologist (possessing a valid ESA Section 10(a)(1)(A) Recovery Permit) shall survey appropriate habitat (Diegan coastal sage scrub) areas within 500 feet of the project footprint and would be subject to construction noise levels exceeding 60 dB hourly average for the presence of the CAGN. If no appropriate habitat is present then the surveys will not be required. If appropriate habitat is present, gnatcatcher surveys shall be conducted pursuant to USFWS protocol survey guidelines within the breeding season prior to commencement of any construction. If gnatcatchers are present the following conditions must be met:
 1. Between March 1 and August 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB hourly average at the edge of occupied gnatcatcher habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the prior to the commencement of construction activities. Prior to commencement of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under supervision of a qualified biologist; or
 2. At least two weeks prior to commencement of construction activities and under direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB hourly average at the edge of habitat occupied by the CAGN. Concurrent with commencement of construction activities and construction of necessary noise attenuation facilities, noise monitoring* shall be conducted at the edge of occupied habitat area to ensure that noise levels do not exceed 60 dB hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (August 16).

* Construction noise shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity to verify that noise levels at the edge of occupied habitat are maintained below 60 dB hourly average or to the ambient noise level if it already exceeds 60 dB hourly average. If not, other measures shall be implemented in consultation with the biologist, as necessary, to reduce noise levels within occupied habitat to below 60 dB hourly average or to the ambient noise level if it already exceeds 60 dB hourly average. Such measures may include but are not limited to limitations on the placement of construction equipment and the simultaneous use of equipment.

- b. If CAGN are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the County and Wildlife Agencies, and no mitigation would be required. NO brushing, clearing and/or grading shall occur until concurrence is received from the County and the Wildlife Agencies.

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 clearing or grading shall occur 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.”

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).*

BIO#3–OFFSITE MITIGATION [PDS, FEE X2]

INTENT: In order to mitigate for impacts to sensitive vegetation/habitat communities and species, which are sensitive biological resources pursuant to [Resource Protection Ordinance \(RPO\)](#) and the [California Environmental Quality Act \(CEQA\)](#), offsite mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of 1.8 acres of Diegan coastal sage scrub and 0.4 acres of non-native grassland (total 2.2 acres), located in unincorporated San Diego County within an area designated as Pre-Approved Mitigation Area (PAMA) of the draft Multiple Species Conservation Program (MSCP) North County Plan area and, to the maximum extent feasible, within the Northern Valley ecoregion as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Wildlife and the U.S. Fish and Wildlife Service.

The following evidence of purchase shall include the following information to be provided by the mitigation bank:

1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
 2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
 3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
 4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in unincorporated San Diego County within an area designated as Pre-Approved Mitigation Area (PAMA) of the draft North County Multiple Species Conservation Program (MSCP) and, to the maximum extent feasible, within the Northern Valley ecoregion as indicated below:
1. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS], the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service.
 2. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
 3. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
 4. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
 5. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of

resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

DOCUMENTATION: The applicant shall purchase the offsite mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is strongly recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and an application for the RMP shall be submitted to the [PDS, ZONING].

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 mitigation shall occur. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition.

Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, PPD] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

GRADING PLAN NOTES

In addition to the conditions set forth above, the following grading and/or improvement plan notes shall be placed on the grading plan and made conditions of the issuance of said permits:

PRE-CONSTRUCTION MEETING: (Prior to any clearing, grubbing, trenching, grading, or any land disturbances.)

BIO#GR-1– BREEDING SEASON AVOIDANCE (AVIAN SPECIES) [PDS, FEE X2]

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noise level experience with listed animal species) and approved by the prior to the commencement of construction activities. Prior to commencement of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under supervision of a qualified biologist; or

2. At least two weeks prior to commencement of construction activities and under direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB hourly average at the edge of habitat occupied by the CAGN. Concurrent with commencement of construction activities and construction of necessary noise attenuation facilities, noise monitoring* shall be conducted at the edge of occupied habitat area to ensure that noise levels do not exceed 60 dB hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (August 16).

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 1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
 2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
 3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
 4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in unincorporated San Diego County within an area designated as Pre-Approved Mitigation Area (PAMA) of the draft North County Multiple Species Conservation Program (MSCP) and, to the maximum extent feasible, within the Northern Valley ecoregion as indicated below:
 1. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS], the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service.

2. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
3. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
4. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
5. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

DOCUMENTATION: The applicant shall purchase the offsite mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is strongly recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and an application for the RMP shall be submitted to the [PDS, ZONING]. **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 mitigation shall occur. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, PPD] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

C. CULTURAL

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).*

CULT#1 (M-CR-1) - ARCHAEOLOGICAL 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, Luiseño and Kumeyaay 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 both a Luiseño and Kumeyaay Native American has been contracted 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, 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 contract 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.

CULT#2 (M-CR-2) - CULTURAL RESOURCES TREATMENT AGREEMENT AND PRESERVATION PLAN

INTENT: In order to mitigate for potential impacts to buried resources, enter into a Cultural Resources Treatment Agreement and Preservation Plan with the culturally-affiliated Native American tribe(s) that will be providing Native American monitoring services. **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 the culturally-affiliated Native American tribe(s) that is providing Native American monitoring services. 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, Kumeyaay and 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, analysis of identified cultural materials, and onsite storage of cultural materials.
- d. Treatment of identified Native American cultural materials.
- e. Treatment of Native American human remains and associated grave goods.
- f. Confidentiality of cultural information including location and data.
- g. Negotiation of disagreements should they arise during the implementation of the Agreement and Preservation Plan.
- h. 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 the approval of any plan and issuance of any permit. **MONITORING:** The [PDS, PPD] shall review the implemented agreement for compliance this condition.

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

CULT#~~23~~ (M-CR-~~23~~) - CULTURAL RESOURCES MONITORING REPORT

INTENT: In order to ensure that the Archaeological Monitoring occurred during the earth-disturbing activities, a final report shall be prepared. **DESCRIPTION OF**

REQUIREMENT: A final Archaeological Monitoring and Data Recovery Report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program shall be prepared. The report shall include the following items:

- a. DPR Primary and Archaeological Site forms.
- b. Daily Monitoring Logs
- c. Evidence that all cultural materials collected during the survey, testing, and archaeological monitoring program have been curated and/or repatriated as follows:
 1. All prehistoric cultural materials shall be curated at a San Diego curation facility or a culturally affiliated Tribal curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility or culturally affiliated Tribal 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 prehistoric archaeological materials have been received and that all fees have been paid.

or

Evidence that all prehistoric materials collected during the archaeological monitoring program have been returned to a Native American group of appropriate tribal affinity. 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.

2. Historic materials shall be curated at a San Diego curation facility as described above 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.

- d. If no cultural resources are discovered, a Negative Monitoring Report must be submitted stating that the grading 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 the [PDS, PPD] for approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center (SCIC), the San Luis Rey Band of Mission Indians, the Viejas Tribal Government, 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:** The [PDS, PPD] shall review the final report for compliance 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.

GRADING PLAN NOTES

In addition to the conditions set forth above, the following grading and/or improvement plan notes shall be placed on the grading plan and made conditions of the issuance of said permits:

PRE-CONSTRUCTION MEETING: (Prior to any clearing, grubbing, trenching, grading, or any land disturbances.)

Archaeological Monitoring

CULT#GR-1 (M-CR-1) - ARCHAEOLOGICAL 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 Luiseño and Kumeyaay 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, Luiseño, and Kumeyaay Native American Monitors shall monitor the original cutting of previously undisturbed deposits in all areas identified for development including off-site improvements. The Project Archaeologist and Luiseño, and Kumeyaay Native American Monitors 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, Luiseño, and Kumeyaay Native American Monitors 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).*

CULT#GR-2 (M-CR-2) - ARCHAEOLOGICAL 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, Luiseño, and Kumeyaay Native American Monitors 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, Luiseño, and Kumeyaay Native American Monitors 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 Luiseño and Kumeyaay Native American Monitors. Monitoring of the cutting of previously disturbed deposits will be determined by the Project Archaeologist in consultation with the Luiseño and Kumeyaay Native American Monitors.
- b. **Inadvertent Discoveries.** In the event that previously unidentified potentially significant cultural resources are discovered:
 1. The Project Archaeologist or the Luiseño or Kumeyaay Native American Monitors 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.
 3. The Project Archaeologist, in consultation with the PDS Staff Archaeologist and the Luiseño and Kumeyaay Native American Monitors, shall determine the significance of the discovered resources.
 4. Construction activities will be allowed to resume in the affected area only after the PDS Staff Archaeologist has concurred with the evaluation.

5. Isolates and clearly non-significant deposits shall be minimally documented in the field. Should the isolates and/or non-significant deposits not be collected by the Project Archaeologist, then the Luiseño and Kumeyaay Native American monitors may collect the cultural material for transfer to a Tribal Curation facility or repatriation program.
 6. If cultural resources are determined to be significant, a Research Design and Data Recovery Program (Program) shall be prepared by the Project Archaeologist in consultation with the Luiseño and Kumeyaay Native American Monitors. The County Archaeologist shall review and approve the Program, which shall be carried out using professional archaeological methods. The Program shall include (1) reasonable efforts to preserve (avoidance) "unique" cultural resources or Sacred Sites; (2) the capping of identified Sacred Sites or unique cultural resources and placement of development over the cap, if avoidance is infeasible; and (3) data recovery for non-unique cultural resources. The preferred option is preservation (avoidance).
- 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 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 conveyance, 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 Luiseño and Kumeyaay Native American monitors shall evaluate fill soils to determine that they are clean of cultural resources.
- e. ~~**Disagreements.** The County Archaeologist shall make a determination for any disagreements between the Project Archaeologist and the Luiseño and Kumeyaay Native American monitors related to archaeological monitoring.~~

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.

ROUGH GRADING: *(Prior to rough grading approval and issuance of any building permit).*

CULT#GR-3 (M-CR-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 the curation 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, the San Luis Rey Band of Mission Indians, the Viejas Tribal Government, 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.

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

CULT#GR-4 (M-CR-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 cultural materials have been curated and/or repatriated as follows:
 1. Evidence that all prehistoric materials collected during the archaeological monitoring program have been submitted to a San Diego curation facility or a culturally affiliated Native American Tribal curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility or culturally affiliated Native American Tribal 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 prehistoric archaeological materials have been received and that all fees have been paid.

or

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.

2. 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.
- d. 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), the San Luis Rey Band of Mission Indians, the Viejas Tribal Government, 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.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

- Landscaping
- Stormwater management
- Windows with dual pane design (or similar) with a sound transmission class (STC) minimum rating of 26

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

County of San Diego Planning Commission

on _____
date

David Sibbet, Planning Manager
Project Planning Division