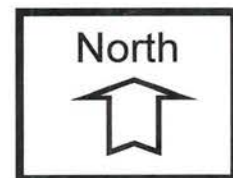




## Aerial Photo

**MCASD EXPANSION - 700 PROSPECT STREET**  
**PROJECT NO. 405930**





## Land Use Map

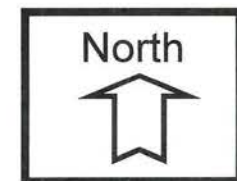
**MCASD EXPANSION - 700 PROSPECT STREET**  
**PROJECT NO. 405930 La Jolla**





## Project Location Map

**MCASD EXPANSION - 700 PROSPECT STREET**  
**PROJECT NO. 405930**



## PROJECT DATA SHEET

<b>PROJECT NAME:</b>	MCASD Expansion – Project No. 405930	
<b>PROJECT DESCRIPTION:</b>	CDP, CUP and PDP to demolish a single family residence and expand an existing museum, including underground parking located on a 2.55-acre project site.	
<b>COMMUNITY PLAN AREA:</b>	La Jolla	
<b>DISCRETIONARY ACTIONS:</b>	Coastal Development Permit, Conditional Use Permit and Planned Development Permit	
<b>COMMUNITY PLAN LAND USE DESIGNATION:</b>	Medium Residential & Cultural	
<b>ZONING INFORMATION:</b> <b>ZONE:</b> Zone 6A and 5A of the La Jolla Planned District <b>HEIGHT LIMIT:</b> 30 foot maximum no proposed building. <b>LOT SIZE:</b> 2,500 square-foot minimum lot size – existing two lots total 2.55-acres. <b>FLOOR AREA RATIO:</b> 1.5 maximum – 0.67 proposed (0.44 currently existing) <b>FRONT SETBACK:</b> 15 feet minimum – 15 feet proposed <b>SIDE SETBACK:</b> 4 foot minimum – 4 foot proposed (with encroachment deviation) <b>STREETSIDE SETBACK:</b> 10 foot minimum – 0 foot (with encroachment deviation) <b>REAR SETBACK:</b> NA (through lot - two street frontages) <b>PARKING:</b> 41 total parking spaces proposed – 24 existing spaces.		
<b>ADJACENT PROPERTIES:</b>	<b>LAND USE DESIGNATION &amp; ZONE</b>	<b>EXISTING LAND USE</b>
<b>NORTH:</b>	Cultural; Zone 5 La Jolla Planned District	Multi-Family Residential
<b>SOUTH:</b>	Medium Residential; Zones 5 & 5A La Jolla Planned District	Multi-Family Residential
<b>EAST:</b>	Cultural & Parks and Open Space; Zone 6 La Jolla Planned District & OP-1-1 Zone	Church and Recreation Center
<b>WEST:</b>	None; No Zone	Ocean
<b>DEVIATIONS OR VARIANCES REQUESTED:</b>	Deviations to setbacks and zoning building height.	

**ATTACHMENT 4**

<b>COMMUNITY PLANNING GROUP RECOMMENDATION:</b>	The La Jolla Community Planning Association voted 11-1-1 to recommended approval the project at their August 6, 2015 meeting.
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PLANNING COMMISSION RESOLUTION NO. \_\_\_\_  
COASTAL DEVELOPMENT PERMIT NO. 1419240, CONDITIONAL USE PERMIT NO. 1425481 AND  
PLANNED DEVELOPMENT PERMIT NO. 1755238  
**MCASD EXPANSION - PROJECT NO. 405930 MMRP**  
AMENDMENT TO COASTAL DEVELOPMENT PERMIT, LA JOLLA PLANNED DISTRICT PERMIT AND  
SPECIAL USE PERMIT NO. 96-0257

WHEREAS, Museum of Contemporary Art San Diego, Corporation, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish an existing single-family residence and construct an expansion/remodel of an existing art museum (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 1419240, 1425481 and 1755238), on portions of a 2.55-acre property;

WHEREAS, the project site is located at 636 and 700 Prospect Street, in 5A and 6A zones of the La Jolla Planned District, Coastal (appealable) Overlay Zone, Coastal Height Limitation Overlay Zone, Parking Impact (coastal and beaches) Overlay Zone, Transit Area Overlay Zone and the Residential Tandem Parking Overlay Zone within the La Jolla Community Plan area;

WHEREAS, the project site is legally described as Lots 1-10 and Lots 13-15, and street closings of Block 35 of La Jolla Park, Map No. 352, filed in the office of the County Recorder of San Diego County March 22, 1987;

WHEREAS, on March 23, 2017, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 1419240, Conditional Use Permit No. 1425481 and Planned Development Permit No. 1755238 pursuant to the Land Development Code of the City of San Diego; NOW THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated March 23, 2017.

COASTAL DEVELOPMENT PERMIT FINDINGS:

**1. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.**

The 2.55 acre site is fully developed with the existing Museum building, a single-family residence, driveways and parking lots, site walls, fencing and is located across Coast Boulevard from the coastline. No physical accessway across the property exists nor is legally used by the public.

No proposed public accessway has been identified in the La Jolla Community Plan and Local Coastal Program land use plan.

The proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan. Appendix G, Coastal Access Subarea Maps of the La Jolla Community Plan and Local Coastal Program land use plan, identifies visual and pedestrian access for coastal areas:

- Figure E, page 148, "Subarea E: Coast Boulevard – Physical Access" identifies Prospect Street to the east of the site as an "Alternative Pedestrian Access", and the seaward side of Coast Boulevard is identified as a "Scenic Blufftop Walkway."
- Figure E, page 149, "Subarea E: Coast Boulevard - Visual Access" identifies Prospect Street to the east of the site as a "Scenic Roadway: Partially obstructed views over private properties and down public R.O.W.. A "Scenic Overlook: View over private property from public R.O.W." is identified in an area that is the existing parking lot at the north portion of the Prospect Street frontage. This parking lot is to be converted in this project to a sculpture courtyard, with a Visual Access Corridor conforming to SDMC 159.0307.f.2. A "View Corridor: Unobstructed framed view down a public R.O.W." is identified at the northerly foot of Cuvier Street: this is maintained in the design and landscape design with appropriate street tree plantings that frame the view down the public right-of-way.

This project is conditioned to record two view corridor easements. One view corridor easement, approximately 43 feet wide, will be recorded in the northern area of the project site containing the sculpture courtyard area. The second will be an approximate five-foot wide view easement through the side yard setback along the southern property line. An existing pine tree, which currently overhangs the Cuvier Street right-of-way, will be moved farther north on the subject property to enhance the public view corridor down Cuvier Street. Through the design of this project, the proposed development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the La Jolla Community Plan and Local Coastal Program Land Use Plan.

## **2. The proposed coastal development will not adversely affect environmentally sensitive lands.**

The 2.55 acre site is fully disturbed with garden, parking lot, courtyards, the existing Museum building, a single-family residence, and extensive landscaping, site walls, and parking and loading dock areas. The site is surrounded on all sides by paved streets that are fully developed with sidewalks, and by developed residential property. The site is separated from the Pacific Ocean by the fully-developed Coast Boulevard South right-of-way.

There are no environmentally sensitive lands on the site or abutting the site. Site drainage currently exists and is designed to drain predominately toward the public street. All surface drainage will be conveyed to Prospect. The environmental review determined that this project may have a significant environmental effect on Historic Resources (Archaeology), Paleontological Resources and the City prepared a Mitigated Negative Declaration (MND), in accordance with the California Environmental Quality Act (CEQA). The MND's Mitigation Monitoring and Reporting Program (MMRP) incorporates mitigation measures into the project for potential impacts to Archaeological Resources and

Paleontological Resources, to reduce the potential impacts to a level below significance. The project was previously graded and the proposed expansion of the museum proposes 7,400 cubic yards of cut, 0 cubic yards of fill, for a total export of 7,400 cubic yards. For these stated reasons, this proposed expansion of the existing museum facility will not adversely affect environmentally sensitive lands.

**3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.**

The project implements the La Jolla Community Plan, which is the Certified Local Coastal Program land use plan for this area. The proposed project is located principally in the area described as the Cultural Complex and as the Cultural Zone (La Jolla Planned District Ordinance Zone 6A), and the Museum of Contemporary Art San Diego is a listed community landmark in the Cultural Zone.

The proposed project expands the listed community landmark use by expanding that use into an abutting property that will converted to the recommended use in the Cultural Zone.

The addition of the portion of land underlying the single family residence at 636 Prospect Street (in Zone 5A - Multi-family Zone of the same LJPD), is consistent with the language and the intent of the La Jolla Community Plan in which the expansion for a higher use is recommended, plus the same LJCP has indicated that the boundary of the Cultural Complex could be adjusted over time (page 110), although that is not proposed in this application. The incorporation of this property to the Museum use requires a finding that the current single-family residential use is no longer feasible in this Zone 5A - Multi-family Zone.

The Heritage Resources Element of the La Jolla Community Plan recommends protecting sites with significant archaeological value within the residential and commercial areas of La Jolla for their scientific, education and heritage values. The subject property has the potential to contain archaeological resources and the proposed development would provide for excavation to the quantity and depth that would likely encounter these. A mitigation measure of this project will provide for archaeological monitoring during excavation.

The proposed expansion of the museum facility will comply with all the development regulations of zones 5A and 6A of the La Jolla Planned District, except for four requested deviations; to building height exceeding the 30-foot Zoning Height Limit, Street Yard Setback fronting Coast Boulevard for Accessible lift and stair, front setback along Prospect Street for Trellis encroachment and side yard setback for egress stairs. With the issuance of this Planned Development Permit authorizing the deviations as described, the proposed development will comply with the regulations of the Land Development Code. For these stated reasons the proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

**4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

The 2.55-acre site is currently developed with an existing Museum building and a single-family residence. The property is on the east side of the first public roadway (Coast Boulevard South) and is not located between the first public roadway and the sea or the shoreline of any body of water located within the Coastal Overlay Zone. Due to the project's location outside of this area, the project is exempt from the public access and public recreation policies of Chapter 3 of the California Coastal Act.

CONDITIONAL USE PERMIT FINDINGS:

**1. The proposed development will not adversely affect the applicable land use Plan.**

The project implements the La Jolla Community Plan, which is the Certified Local Coastal Program land use plan for this area. The proposed project is located principally in the area described as the Cultural Complex and as the Cultural Zone (La Jolla Planned District Ordinance Zone 6A), and the Museum of Contemporary Art San Diego is a listed community landmark in the Cultural Zone.

The proposed project expands the listed community landmark use by expanding that use into an abutting property that will be converted to the recommended use in the Cultural Zone.

The addition of the portion of land underlying the single family residence at 636 Prospect Street (in Zone 5A - Multi-family Zone of the same LJPD), is consistent with the language and the intent of the La Jolla Community Plan in which the expansion for a higher use is recommended, plus the same LJCP has indicated that the boundary of the Cultural Complex could be adjusted over time (page 110), although that is not proposed in this application. The incorporation of this property to the Museum use requires a finding that the current single-family residential use is no longer feasible in this Zone 5A - Multi-family Zone.

The Heritage Resources Element of the La Jolla Community Plan recommends protecting sites with significant archaeological value within the residential and commercial areas of La Jolla for their scientific, education and heritage values. The subject property has the potential to contain archaeological resources and the proposed development would provide for excavation to the quantity and depth that would likely encounter these. A mitigation measure of this project will provide for archaeological monitoring during excavation.

The proposed expansion of the museum facility will comply with all the development regulations of zones 5A and 6A of the La Jolla Planned District, except for four requested deviations; to building height exceeding the 30-foot Zoning Height Limit, Street Yard Setback fronting Coast Boulevard for Accessible lift and stair, front setback along Prospect Street for Trellis encroachment and side yard setback for egress stairs. With the issuance of this Planned Development Permit authorizing the deviations as described, the proposed development will

comply with the regulations of the Land Development Code. For these stated reasons the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.**

The proposed project is an infill development within an urbanized portion of the City and will have adequate levels of essential public services available, including police, fire, and emergency medical services. The project will not be detrimental to public health, safety and welfare in that the permit controlling the development and continued use of this site contains specific conditions addressing compliance with the City's codes, policies, regulations and other regional, state, and federal regulations. The project will be built to all current development standards and will therefore not be detrimental to the public. The street improvements associated with this development are required to comply with City Engineering and Fire Department Standards and will improve public safety. In addition, conditions of approval require the review and approval of all construction plans by City staff prior to construction to determine the construction of the project will comply with all building code regulations. The construction will be inspected by certified building and engineering inspectors to assure construction is in accordance with the approved plans and with all regulations.

A Mitigated Negative Declaration, was prepared for the project in accordance with the State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to below a level of significance, any potential impacts identified in the environmental review process. Therefore, the project as proposed will not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.**

The 2.55-acre project site is currently developed with a museum facility and a single dwelling unit. The project proposes to demolish the existing residence at 636 Prospect Street and construct a 49,444 square-foot addition/remodel to an existing 55,570 square-foot museum, resulting in a new square footage total of 105,014 square-feet. The proposed expansion of the museum facility will comply with all the development regulations of zones 5A and 6A of the La Jolla Planned District, except for the following four requested deviations.

- A. Height exceeding the 30-foot Zoning Height Limit. The existing museum building predates Proposition D and the Certified Local Coastal Plan (SDMC 113.0270.a.2.B), and observes a height of 54 feet 5 inches, exceeding the maximum 30-foot height "plumb line" zoning height allowed today. Note that this is not a request for a deviation to Proposition D, which addresses a measurement taken at the exterior wall of the building. The maximum zoning height, which is the limit on structure height set by City Council for base zones throughout the City, is often confused with the 30 foot coastal height limit, a voter initiative (effective December 7, 1972). However, maximum zoning height and the coastal height limit are separate requirements that are calculated and measured in significantly different ways. Through the PDP process, the City has the flexibility to allow deviations to the base zone height limits, but is unable to modify the coastal height limit provisions ("Prop D") without approval by City of San Diego voters.

The proposed addition would be to south side of the existing museum building, where the existing home is to be demolished. This proposed deviation to a height of 33 feet, 11 inches, is located in a portion of the proposed addition that is directly south of the existing museum building, at an existing loading dock and truck apron area. A key part of this project is the proposal to convert the existing parking area in the northern portion of the project site into a sculpture garden. The requested deviation is essential to maximize function of the new parking garage which will replace the parking lot, and provide for an interior loading area that will accept tractor trailers as well as bobtail trucks, with level access to other parts of the museum. This deviation is essential to enhance the aesthetic appeal of the Visual Access Corridor at the north side of the property, and the functionality of the garage and basement access in the addition. It is recognized that this truck loading area was historically created to provide basement access to the Museum workshops and offices, and the affected area at one time was excavated below the existing grade to create this access, which appears consistent with SDMC Diagram 113-0200. Note that this is the minimum clearance for a tractor trailer, and the museum will be required to use a lift to provide access to the tractor trailer regardless. The museum is concerned about moving bulky art pieces in this area, and this is the minimum floor level that will allow the museum to do this and connect to the other floor levels in the building. Note that the clear height in the gallery space above the loading dock is 10 feet, which is also the minimum clear height for this kind of museum. With the approval of this deviation, it is recognized that the existing previously conforming height of the adjacent existing structure will be retained. The proposed new structure conforms to Proposition D, but the "plumb line" height in the interior of the addition does not conform to the zoning height limit at the area fronting the loading dock, as described above. It is noted that no change is proposed in the roof line in the area of the deviation. The deviation is necessary in order to make the proposed garage and loading area function properly with adequate ceiling to floor heights. The garage, in turn, is a valuable feature of the project because it makes possible the removal of all vehicles from the parking lot at the north side of the property to create the Visual Access Corridor on the north side of the property. If this deviation is not approved, the Loading Area will not function for transfer activities, unless additional parking spaces are deleted or museum staff will be forced to make more transfers outside of the building. The approval of this proposed deviation is appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of this zone and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.

- B. This deviation is to the 10-foot required Street Side Yard fronting Coast Blvd (SDMC 159.0307.b.2.B) to permit an elevator lift and stair to encroach into the street side setback (Coast Boulevard), where the zone requires a minimum setback of 10 feet per SDMC Section 159.0307 (b) (2). Providing the proposed Lift and Stair, located in the south western portion of the site, will minimize the disruption to the existing slope and cobblestone rock wall fronting Coast Boulevard, as well as minimize the required excavation, and promote the accessibility between Coast Boulevard and the Museum. The encroachment into the street side yard fronting South Coast Boulevard is up to 7 feet 6 inches over a length of 68 feet 9 inches, for an area of 475 square feet. This design

will provide an improved accessible connection between the Museum and the pedestrian path of travel toward the west to the Coast Boulevard street frontage and ocean views. These are both desirable features.

- C. Providing an 80-foot long trellis parallel to Prospect Street where a maximum length of 50 feet is permitted, is appropriate for the scale and location of this trellis. The zone allows a 3-foot encroachment provided the encroachment does not exceed 50-ft in total length for any one encroachment and provided that an additional equivalent landscape area be provided directly in front of the building and behind an adjacent to the required yards with an encroachment of only 2-feet, 21/2 inches, this trellis conforms to the 3-foot limit, but at 80-feet, 41/4 inches, it is longer than 50 feet, an offsetting landscaped area is adjacent to the south which is 2525 square feet, much larger than the deviating 42 square feet of encroachment (Attachment 13). This feature is an important design element that provides a frame for the larger-scale entrance to the Museum as well as a welcome feature along the street frontage. Further, this deviation is offset by a landscaped area of equal length that is provided directly in front of the building and behind and adjacent to the required yard.
- D. The maximum permitted height of a single retaining wall in a side yard is six feet, and above that height multiple walls are required that must be offset. This is ordinarily applied to a retaining wall that is oriented so that the wall faces adjacent properties. For this project, the wall is part of a stair case. The exposed face of the wall is only visible from the interior of the lot, and in a relatively narrow well of the underground garage. The encroachment into the interior side yard varies from 10 inches to 2 feet, over a length of 34 feet, in a plan area of 48 square feet. Above grade, the wall extends to a guard rail height of 42". Without this deviation the area of gallery and garage would need to be reduced to accommodate the stair case (Attachment 14). This deviation will make it possible to create an egress stair and preserve the width of the garage below and the galleries above.

**4. The proposed use is appropriate at the proposed location.**

The 2.55-acre project site is currently developed with a museum and a single dwelling unit. The project proposes to demolish the existing residence at 636 Prospect Street and construct a 49,444 square-foot addition/ remodel to an existing 55,570 square-foot museum, resulting in a new square footage total of 105,014 square-feet. The project implements the La Jolla Community Plan, which is the Certified Local Coastal Program land use plan for this area. The proposed project is located principally in the area described as the Cultural Complex and as the Cultural Zone (La Jolla Planned District Ordinance Zone 6A), and the Museum of Contemporary Art San Diego is a listed community landmark in the Cultural Zone.

This museum facility is bordered to the west by open space park, single-family residential to the north, multi-family residential to the south, and to the east by a community recreation center. The proposed museum expansion would be located south of the existing facility portion of the 2.55-acre project site. The proposed expansion of the museum facility would help achieve the objective by providing an enhanced cultural facility within the Cultural Zone. The proposed expansion of the existing museum facility is appropriate at the proposed location.

**PLANNED DEVELOPMENT PERMIT FINDINGS:****1. The proposed development will not adversely affect the applicable land use plan.**

The project implements the La Jolla Community Plan, which is the Certified Local Coastal Program land use plan for this area. The proposed project is located principally in the area described as the Cultural Complex and as the Cultural Zone (La Jolla Planned District Ordinance Zone 6A), and the Museum of Contemporary Art San Diego is a listed community landmark in the Cultural Zone.

The proposed project expands the listed community landmark use by expanding that use into an abutting property that will be converted to the recommended use in the Cultural Zone.

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The proposed expansion of the museum facility will comply with all the development regulations of zones 5A and 6A of the La Jolla Planned District, except for four requested deviations; to building height exceeding the 30-foot Zoning Height Limit, Street Yard Setback fronting Coast Boulevard for Accessible lift and stair, front setback along Prospect Street for Trellis encroachment and side yard setback for egress stairs. With the issuance of this Planned Development Permit authorizing the deviations as described, the proposed development will comply with the regulations of the Land Development Code. Due to these factors the proposed development will not adversely affect the City of San Diego adopted La Jolla Community Plan and Local Coastal Land Use Plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.**

The proposed project is an infill development within an urbanized portion of the City and will have adequate levels of essential public services available, including police, fire, and emergency medical services. The project will not be detrimental to public health, safety and welfare in that the permit controlling the development and continued use of this site contains specific conditions addressing compliance with the City's codes, policies, regulations and other regional, state, and federal regulations. The project will be built to all current development standards and will therefore not be

detrimental to the public. The street improvements associated with this development are required to comply with City Engineering and Fire Department Standards and will improve public safety. In addition, conditions of approval require the review and approval of all construction plans by City staff prior to construction to determine the construction of the project will comply with all building code regulations. The construction will be inspected by certified building and engineering inspectors to assure construction is in accordance with the approved plans and with all regulations.

A Mitigated Negative Declaration, was prepared for the project in accordance with the State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to below a level of significance, any potential impacts identified in the environmental review process. Therefore, the project as proposed will not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b) (1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone; and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.**

The 2.55-acre project site is currently developed with a museum facility and a single dwelling unit. The project proposes to demolish the existing residence at 636 Prospect Street and construct a 49,444 square-foot addition/remodel to an existing 55,570 square-foot museum, resulting in a new square footage total of 105,014 square-feet. The proposed expansion of the museum facility will comply with all the development regulations of zones 5A and 6A of the La Jolla Planned District, except for the following four requested deviations.

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access to other parts of the museum. This deviation is essential to enhance the aesthetic appeal of the Visual Access Corridor at the north side of the property, and the functionality of the garage and basement access in the addition. It is recognized that this truck loading area was historically created to provide basement access to the Museum workshops and offices, and the affected area at one time was excavated below the existing grade to create this access, which appears consistent with SDMC Diagram 113-0200. Note that this is the minimum clearance for a tractor trailer, and the museum will be required to use a lift to provide access to the tractor trailer regardless. The museum is concerned about moving bulky art pieces in this area, and this is the minimum floor level that will allow the museum to do this and connect to the other floor levels in the building. Note that the clear height in the gallery space above the loading dock is 10 feet, which is also the minimum clear height for this kind of museum. With the approval of this deviation, it is recognized that the existing previously conforming height of the adjacent existing structure will be retained. The proposed new structure conforms to Proposition D, but the "plumb line" height in the interior of the addition does not conform to the zoning height limit at the area fronting the loading dock, as described above. It is noted that no change is proposed in the roof line in the area of the deviation. The deviation is necessary in order to make the proposed garage and loading area function properly with adequate ceiling to floor heights. The garage, in turn, is a valuable feature of the project because it makes possible the removal of all vehicles from the parking lot at the north side of the property to create the Visual Access Corridor on the north side of the property. If this deviation is not approved, the Loading Area will not function for transfer activities, unless additional parking spaces are deleted or museum staff will be forced to make more transfers outside of the building. The approval of this proposed deviation is appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of this zone and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.

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Providing an 80-foot long trellis parallel to Prospect Street where a maximum length of 50 feet is permitted, is appropriate for the scale and location of this trellis. The zone allows a 3-foot encroachment provided the encroachment does not exceed 50-ft in total length for any one encroachment and provided that an additional equivalent landscape area be provided directly in front of the building and behind an adjacent to the required yards with an encroachment of only 2-feet, 21/2 inches, this trellis conforms to the 3-foot limit, but at 80-feet, 41/4 inches, it is longer than 50 feet, an offsetting landscaped area is adjacent to the south which is 2525 square feet, much

larger than the deviating 42 square feet of encroachment (Attachment 13). This feature is an important design element that provides a frame for the larger-scale entrance to the Museum as well as a welcome feature along the street frontage. Further, this deviation is offset by a landscaped area of equal length that is provided directly in front of the building and behind and adjacent to the required yard.

The maximum permitted height of a single retaining wall in a side yard is six feet, and above that height multiple walls are required that must be offset. This is ordinarily applied to a retaining wall that is oriented so that the wall faces adjacent properties. For this project, the wall is part of a stair case. The exposed face of the wall is only visible from the interior of the lot, and in a relatively narrow well of the underground garage. The encroachment into the interior side yard varies from 10 inches to 2 feet, over a length of 34 feet, in a plan area of 48 square feet. Above grade, the wall extends to a guard rail height of 42". Without this deviation the area of gallery and garage would need to be reduced to accommodate the stair case (Attachment 14). This deviation will make it possible to create an egress stair and preserve the width of the garage below and the galleries above.

The deviations were analyzed to determine consistency with the goals and recommendations of the community plan and the purpose and intent of the Planned Development Permit Ordinance. The Land Development Code allows the applicant to request deviations through a Planned Development Permit, and other than the requested deviations, in those four areas, the project as proposed complies with all applicable regulations of the Land Development Code and will not adversely affect the Progress Guide and General Plan, the La Jolla Community Plan. The design flexibility allowed this development to include a connected addition to the existing museum building option under the circumstances. These are features that will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Coastal Development Permit No. 1419240, Conditional Use Permit No. 1425481 and Planned Development Permit No. 1755238, is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 1419240, 1425481 and 1755238, a copy of which is attached hereto and made a part hereof.

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Glenn R. Gargas  
Development Project Manager  
Development Services

Adopted on: March 23, 2017

IO#: 24005530

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION  
501

**WHEN RECORDED MAIL TO**  
**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**

INTERNAL ORDER NUMBER:24005530

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 1419240 CONDITIONAL USE PERMIT NO. 1425481 AND  
PLANNED DEVELOPMENT PERMIT NO. 1755238  
**MCASD EXPANSION - PROJECT NO. 405930 MMRP**  
**AMENDMENT TO COASTAL DEVELOPMENT PERMIT, LA JOLLA PLANNED DISTRICT PERMIT AND**  
**SPECIAL USE PERMIT NO. 96-0257**  
PLANNING COMMISSION

This Coastal Development Permit No. 1419240, Conditional Use Permit No. 1425481 and Planned Development Permit No. 1755238, Amendment to Coastal Development Permit, La Jolla Planned District Permit and Special Use Permit No. 96-0257 are granted by the Planning Commission of the City of San Diego to the Museum of Contemporary Art San Diego, Corporation, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0704, 159.0210 and 126.602. The 2.55-acre site is located at 636 and 700 Prospect Street in the 5A and 6A zones of the La Jolla Planned District, Coastal (appealable) Overlay zone, Coastal Height Limitation Overlay Zone, Parking Impact (Coastal and Beaches) Overlay Zone, Transit Area Overlay Zone and the Residential Tandem Parking Overlay Zone within the La Jolla Community Plan area. The project site is legally described as: Lots 1-10 and Lots 13-15, and street closings of Block 35 of La Jolla Park, Map No. 352, filed in the office of the County Recorder of San Diego County March 22, 1987.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish an existing single-family residence and construct an addition/remodel of an existing art museum described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 23, 2017, on file in the Development Services Department.

The project shall include:

- a. Demolish an existing single-family residence at 636 Prospect Street and construct a 49,444 square foot addition to an existing 55,570 square-foot museum, resulting in a 105,014 square-foot museum, and construction of a new underground parking garage to accommodate 41 cars (a portion via 19 parking lifts) and two motorcycle spaces ;

- b. Deviations to building height exceeding the 30-foot Zoning Height Limit, Street Yard Setback fronting Coast Boulevard for Accessible lift and stair, front setback along Prospect Street for Trellis encroachment and side yard setback for egress stairs;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking;
- e. Sculpture garden, outdoor terrace, trellis and site walls; and
- f. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by (date to be determined – Appealable to California Coastal Commission) \_\_\_\_\_.
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the

Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program (MMRP) shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

13. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 405930 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 405930, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

- Archaeological and Paleontological Resources

**CLIMATE ACTION PLAN (CAP) REQUIREMENTS:**

15. The Owner/Permittee shall comply with The Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements."

16. The Climate Action Plan strategies as identified on Exhibit "A" shall be enforced and implemented to the satisfaction of the Development Services Department.

**ENGINEERING REQUIREMENTS:**

17. The project proposes to export 7,400 cubic yards of material from the project site. All excavated material listed to be exported shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2009 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

18. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.

19. Prior to foundation inspection, the Owner/Permittee shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying that the pad elevation based on USGS datum is consistent with Exhibit 'A', satisfactory to the City Engineer.

20. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the curb outlet in the Coast Boulevard right-of-way.
21. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to close the two existing driveways with current City Standards curb, gutter and sidewalk, adjacent to the site on Prospect Street, satisfactory to the City Engineer.
22. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing curb and gutter, with current City Standards curb and gutter, adjacent to the site on Prospect Street, satisfactory to the City Engineer.
23. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing driveway with current City Standards 24-foot wide concrete driveway, adjacent to the site on Cuvier Street, satisfactory to the City Engineer.
24. Prior to the issuance of any building permits, the Owner/Permittee shall reconstruct the existing two curb ramps with current City Standard curb ramp per Standard Drawing SDG-130 and SDG-132 with truncated domes, adjacent to the site on Prospect Street, satisfactory to the City Engineer.
25. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices (BMP) maintenance, satisfactory to the City Engineer.
26. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
27. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
28. Prior to the issuance of any construction permit, the Water Quality Technical Report will be subject to final review and approval by the City Engineer.

**LANDSCAPE REQUIREMENTS:**

29. Prior to issuance of any engineering permits for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Development Services Department.
30. Prior to issuance of any engineering permits for right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall

show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

31. In the event that a foundation only permit is requested, the Owner/Permittee shall submit a site plan or staking layout plan identifying all landscape areas consistent with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

32. Prior to issuance of any construction permits for structures, the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Development Services Department. Construction plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)(5).

33. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

34. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace it in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage.

#### **PLANNING/DESIGN REQUIREMENTS:**

35. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

36. Prior to the issuance of any construction permits, the Owner/Permittee shall record a 43-foot-wide View Corridor Easement on the north side of the project and a five-foot wide View Corridor Easement on the south side of the project as shown on Exhibit "A," in accordance with SDMC section 132.0403.

37. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations.

38. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

39. All terms and conditions of Coastal Development/La Jolla Planned District/Special Use Permit No. 96-0257, shall remain in effect except as modified by this approval.

#### **TRANSPORTATION REQUIREMENTS**

40. No fewer than one on-site loading area (two on-site loading areas as illustrated on Exhibit "A") shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A," in compliance with requirements of the San Diego Municipal Code (SDMC), and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

41. No fewer than 41 off-street parking spaces (with 41 on-site parking spaces provided; including 1 disabled accessible space; 19 parking lifts) and four bicycle spaces and two motorcycle spaces shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A." Further, all on-site parking stalls and aisle widths shall be in compliance with requirements of the San Diego Municipal Code (SDMC), and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

42. Prior to building permit issuance for the expansion, the Owner/Permittee shall implement and maintain a Parking Management Plan approved by Development Services Department, to include at least the following:

- A. The Museum will continue to coordinate events with Bishops School and La Jolla Music Society.
- B. Visitors to the Museum will receive half-off admission when they show their MTS pass or receipt for that day, or ride their bicycle to the museum.
- C. The Museum will make use of valet and/or limousine and shuttle services for all meetings or events in which 320 or more attendees are expected.
- D. Museum employees will receive incentives to carpool, bicycle to work, and use public transportation. For vehicles used by carpooling employees, there will be one of the four designated carpool parking spaces onsite for the employee's carpool vehicle. The incentive for carpooling will be the use of one of the four designated carpool spaces or \$5 per day for each of the carpool drivers, up to a maximum of \$50 per month. For employees who bicycle to work or use public transportation, the incentive will be \$5 per day for each employee who bicycles to work or uses public transportation, up to a maximum of \$50 per month.
- E. The Museum shall provide 10 short-term bicycle spaces, 2 long-term bicycle spaces, and 2 motorcycle parking spaces for visitors and Museum employees onsite and as shown in Exhibit A.

- F. The Museum will maintain an information resource to provide physical and electronic information to Museum attendees to encourage alternative transportation to the Museum, including referral to alternative transportation and identification of nearby off-street public parking.
- G. The Museum will work with UCSD to investigate and explore alternative transportation in the La Jolla area to launch a shuttle service to transport visitors to the various organizations in the Cultural Zone of the La Jolla Community.

This parking management plan will be on file and available to view on request at the Museum business office during normal business hours. This parking management plan will be maintained and will be reviewed and updated, not less than once every ten years, to adapt to new conditions and the operations of the Museum, satisfactory to the Development Services Department.

43. Prior to any event at the Museum with expected attendance of 320 or more persons, the Museum shall secure and provide valet parking service with reserved off-street parking for the vehicles of event attendees.

**PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

44. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way. The Public Utilities Department will not permit the required BFPDs to be located below grade or within the structure.

45. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public water and sewer facilities are to be in accordance with established criteria in the most current City of San Diego Water and Sewer Design Guides.

46. All public water and sewer facilities are to be in accordance with the established criteria in the most current City of San Diego Water and Sewer Design Guides.

47. All proposed private water and sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

48. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities or five feet of any water facilities.

49. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to cap (abandon) at the property line any existing unused sewer lateral and install new sewer lateral(s) which must be located outside of any driveway or vehicular use area.

50. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to remove (kill) at the main any existing unused water service.

**GEOLOGY REQUIREMENTS**

51. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

52. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to exoneration of the bond and grading permit close-out.

**INFORMATION ONLY:**

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on March 23, 2017, by Resolution No. \_\_\_\_\_

Permit Type/PTS Approval No.: CDP No. 1419240, CUP No. 1425481 and PDP No. 1755238  
Date of Approval: March 23, 2017

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

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Glenn R. Gargas  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

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**The undersigned Owner/Permittee**, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

Museum of Contemporary Art San Diego  
Owner/Permittee

By \_\_\_\_\_  
Charles Castle, Deputy Director and COF

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

RESOLUTION NUMBER R-\_\_\_\_\_

ADOPTED ON MARCH 23, 2017

WHEREAS, on February 10, 2015, Museum of Contemporary Art San Diego submitted an application to the Development Services Department for a Coastal Development Permit, Conditional Use Permit and Planned Development Permit for the Museum of Contemporary Art San Diego Expansion Project - Project No. 405930 (Project); and

WHEREAS, the matter was set for a public hearing to be conducted by the Planning Commission of the City of San Diego; and

WHEREAS, the issue was heard by the Planning Commission on March 23, 2017; and

WHEREAS, the Planning Commission considered the issues discussed in Mitigated Negative Declaration No. 405930 (Declaration) prepared for this Project; NOW THEREFORE,

BE IT RESOLVED, by the Planning Commission that it is certified that the Declaration has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), that the Declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said Declaration, together with any comments received during the public review process, has been reviewed and considered by the Planning Commission in connection with the approval of the Project.

BE IT FURTHER RESOLVED, that the Planning Commission finds on the basis of the entire record that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study, that there is no substantial evidence that the Project will have a significant effect on the environment, and therefore, that said Declaration is hereby adopted.

BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081.6, the Planning Commission hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this Planning Commission in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that the Declaration and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the Development Services Department, 1222 First Avenue, San Diego, CA 92101.

BE IT FURTHER RESOLVED, that Development Services Staff is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

By: \_\_\_\_\_  
Glenn R. Gargas, Development Project Manager

ATTACHMENT(S):      Exhibit A, Mitigation Monitoring and Reporting Program

**EXHIBIT A****MITIGATION MONITORING AND REPORTING PROGRAM**

Coastal Development Permit, Conditional Use Permit and Planned Development Permit for the  
Museum of Contemporary Art Expansion Project  
PROJECT NO. 405930

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Mitigated Negative Declaration No. 405930 shall be made conditions of Coastal Development Permit and La Jolla Planned District Special Use Permit (CUP) for the Museum of Contemporary Art Expansion Project as may be further described below.

**A. GENERAL REQUIREMENTS – PART I****Plan Check Phase (prior to permit issuance)**

1. Prior to the issuance of a Notice To Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Services Department (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD), (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.

2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, **"ENVIRONMENTAL/MITIGATION REQUIREMENTS."**

3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:

<http://www.sandiego.gov/development-services/industry/standtemp.shtml>

4. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.

5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

**B. GENERAL REQUIREMENTS – PART II**

**Post Plan Check (After permit issuance/Prior to start of construction)**

**1. PRE CONSTRUCTION MEETING IS REQUIRED TEN (10) WORKING DAYS PRIOR TO BEGINNING ANY WORK ON THIS PROJECT.** The PERMIT HOLDER/OWNER is responsible to arrange and perform this meeting by contacting the CITY RESIDENT ENGINEER (RE) of the Field Engineering Division and City staff from MITIGATION MONITORING COORDINATION (MMC). Attendees must also include the Permit holder's Representative(s), Job Site Superintendent and the following consultants:

***Qualified Archaeologist***

***Qualified Native American Monitor***

***Qualified Paleontologist***

**Note:**

**Failure of all responsible Permit Holder's representatives and consultants to attend shall require an additional meeting with all parties present.**

**CONTACT INFORMATION:**

- a) The PRIMARY POINT OF CONTACT is the **RE** at the **Field Engineering Division - 858-627-3200**
- b) For Clarification of ENVIRONMENTAL REQUIREMENTS, it is also required to call **RE and MMC at 858-627-3360**

**2. MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) #405930 and /or Environmental Document # 405930, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e. to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc

**Note:**

**Permit Holder's Representatives must alert RE and MMC if there are any discrepancies in the plans or notes, or any changes due to field conditions. All conflicts must be approved by RE and MMC BEFORE the work is performed.**

**3. OTHER AGENCY REQUIREMENTS:** Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution or other documentation issued by the responsible agency.

***Not Applicable***

**4. MONITORING EXHIBITS**

All consultants are required to submit , to RE and MMC, a monitoring exhibit on a 11x17 reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline's work, and notes indicating

when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.

**NOTE:**

**Surety and Cost Recovery – When deemed necessary by the Development Services Director or City Manager, additional surety instruments or bonds from the private Permit Holder may be required to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.**

**5. OTHER SUBMITTALS AND INSPECTIONS:**

The Permit Holder/Owner's representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

<i>Issue Area</i>	<i>Document submittal</i>	<i>Assoc Inspection/Apv l</i>	<i>Notes</i>
Pre Con Meeting	Request letter	MMC approval	3 days prior to pre con
Paleontology	Paleontology Reports	Paleontology site observation	
Archaeology	Archaeology Reports	Archaeology/Historic site observation	
Final approval	Request for Final	Final inspection	1 week after request
Bond Release	Request letter	LEMA verification	2 week minimum LEMA

**B. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS**

PALEONTOLOGICAL RESOURCES

**I. Prior to Permit Issuance**

**A. Entitlements Plan Check**

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

**B. Letters of Qualification have been submitted to ADD**

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

## II. Prior to Start of Construction

### A. Verification of Records Search

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

### B. PI Shall Attend Precon Meetings

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

## III. During Construction

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

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.**
2. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching

activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

3. The monitor shall document field activity via the Consultant Site Visit Record (CSV). The CSV's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

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

C. Determination of Significance

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

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

- A. If night and/or weekend work is included in the contract
  1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
  2. The following procedures shall be followed.
    - a. No Discoveries  
In the event that no discoveries were encountered during night and/or weekend work, The PI shall record the information on the CSV and submit to MMC via fax by 8AM on the next business day.
    - b. Discoveries  
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.

- c. Potentially Significant Discoveries  
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
  - d. The PI shall immediately contact MMC, or by 8AM on the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction
    - 1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
    - 2. The RE, or BI, as appropriate, shall notify MMC immediately.
  - C. All other procedures described above shall apply, as appropriate.

## **V. Post Construction**

- A. Preparation and Submittal of Draft Monitoring Report
  - 1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring.
    - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
    - b. Recording Sites with the San Diego Natural History Museum  
The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
  - 2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
  - 3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
  - 4. MMC shall provide written verification to the PI of the approved report.
  - 5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
- B. Handling of Fossil Remains
  - 1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
  - 2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate
- C. Curation of fossil remains: Deed of Gift and Acceptance Verification
  - 1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
  - 2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
- D. Final Monitoring Report(s)

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

## ARCHAEOLOGICAL RESOURCES

### **I. Prior to Permit Issuance**

#### **A. Entitlements Plan Check**

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the applicable construction documents through the plan check process.

#### **B. Letters of Qualification have been submitted to ADD**

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project meet the qualifications established in the HRG.
3. Prior to the start of work, the applicant must obtain written approval from MMC for any personnel changes associated with the monitoring program.

### **II. Prior to Start of Construction**

#### **A. Verification of Records Search**

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coastal Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the 1/4 mile radius.

#### **B. PI Shall Attend Precon Meetings**

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any

grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.

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

### III. During Construction

- A. Monitor(s) Shall be Present During Grading/Excavation/Trenching
  1. The Archaeological Monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the AME.**
  2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section III.B-C and IV.A-D shall commence.
  3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.
  4. The archaeological and Native American consultant/monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the

CM to the RE the first day of monitoring, the last day of monitoring, monthly **(Notification of Monitoring Completion)**, and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.
4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.

C. Determination of Significance

1. The PI and Native American consultant/monitor, where Native American resources are discovered shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
  - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
  - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) which has been reviewed by the Native American consultant/monitor, and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume. **Note: If a unique archaeological site is also an historical resource as defined in CEQA, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.**
  - c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

IV. **Discovery of Human Remains**

If human remains are discovered, work shall halt in that area and no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS) of the Development Services Department to assist with the discovery notification process.

2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.
- B. Isolate discovery site
1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenance of the remains.
  2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenance.
  3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.
- C. If Human Remains **ARE** determined to be Native American
1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
  2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
  3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
  4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
  5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
    - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission; OR;
    - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, THEN,
    - c. In order to protect these sites, the Landowner shall do one or more of the following:
      - (1) Record the site with the NAHC;
      - (2) Record an open space or conservation easement on the site;
      - (3) Record a document with the County.
    - d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and items associated and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.
- D. If Human Remains are **NOT** Native American
1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.

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

#### V. Night and/or Weekend Work

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

#### VI. Post Construction

- A. Preparation and Submittal of Draft Monitoring Report
  1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring. **It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe resulting from delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.**

- a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
- b. Recording Sites with State of California Department of Parks and Recreation  
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
- B. Handling of Artifacts
  1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
  2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
  3. The cost for curation is the responsibility of the property owner.
- C. Curation of artifacts: Accession Agreement and Acceptance Verification
  1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
  2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
  3. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection 5.
- D. Final Monitoring Report(s)
  1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
  2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

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

1038

DOC # 1997-0646790

RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES

AND WHEN RECORDED MAIL TO  
CITY CLERK'S OFFICE  
MAIL STATION 2A.

DEC 19, 1997 9:09 AM

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
GREGORY J. SMITH, COUNTY RECORDER  
FEES: 56.00

SPACE ABOVE THIS L



CITY COUNCIL  
COASTAL DEVELOPMENT/LA JOLLA PLANNED DISTRICT/SPECIAL USE  
PERMIT NO. 96-0257  
SAN DIEGO MUSEUM OF CONTEMPORARY ART  
AMENDMENT TO COASTAL DEVELOPMENT/LA JOLLA PLANNED DISTRICT/  
SPECIAL USE PERMIT NO. 90-0747

This Coastal Development/La Jolla Planned District/Special Use Permit Amendment No. 96-0257 is granted by the Council of The City of San Diego to THE SAN DIEGO MUSEUM OF CONTEMPORARY ART, a California Not-For-Profit Corporation, Owner/Permittee, pursuant to San Diego Municipal Code sections 105.0202, 103.1201 and 103.1208.

1. Permission is hereby granted to Owner/Permittee to amend Coastal Development/La Jolla Planned District/Special Use Permit No. 90-0747 for property located at 700 Prospect Street, described as Lots 1 through 10, 13, 14 and a Portion of 15, Block 35, La Jolla Park, Map No. 352, within Zone 6A of the La Jolla Planned District.

2. The facility shall consist of the following:

- a. Renovate the existing museum, add 7,555 square feet of useable space and a security fence (six-foot-high, wrought iron fence, setback 3'-6" from property line on Coast Boulevard);
- b. Landscaping;
- c. Off-street parking; and
- d. Incidental accessory uses as may be determined incidental and approved by the City Manager.

3. The Permittee shall mount a plaque where it can be readily viewed by garden passersby along the Coast Blvd. South side of the property honoring the memory of Ellen Browning Scripps, and explaining the significance of the garden as the site of her

1039

original garden. The Museum will consult with the La Jolla Historical Society on the design of the plaque.

4. The fence is to be of the design and material already exhibited to the City Council and installed elsewhere on the Museum grounds, or otherwise be of an attractive and tasteful design consistent with the "open fencing" requirements of the Municipal Code which would allow public viewing of the garden from outside the fence.

5. The Permittee shall allow free, public access to the sculpture garden during all hours when the Museum is open to the public, provided that the admission of such patrons be through the main entrance of the Museum. Should an appeal to the California Coastal Commission or a civil action be filed in opposition to the granting of this permit, the Permittee's acceptance of this permit condition is predicated on the entire permit, as approved by the City Council on June 3, 1997, by Resolution No. R-288754, being unchanged either by future actions by the California Coastal Commission or by a court. Further the Trustees agree to put up a sign near the gate in the sculpture garden wall along Coast Boulevard South informing the public of the free, public access policy and directing people to the main entrance. This sign shall be installed concurrently with the relocation of the fence.

a. This condition regarding free, public access may be reviewed five (5) years from the approval date of this permit at the Museum's request. Should the Permittee desire to amend or eliminate the free, public access condition, the burden to adequately demonstrate the need to amend or eliminate this condition will fall to the Museum Trustees.

6. Not fewer than 24 off-street parking spaces shall be maintained on the property in the location shown on Exhibit "A," dated February 27, 1992, on file in the office of Development Services. ~~Parking spaces shall comply with Chapter 2, Article 1, Division 8 of the Zoning Regulations of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking space dimensions shall conform to Zoning Ordinance standards. Parking areas shall be clearly marked at all times. Landscaping located in any parking area shall be permanently maintained and not converted for any other use.~~

7. No permit shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

a. The Permittee signs and returns the permit to Development Services; and

1040

- b. The Coastal Development/La Jolla Planned District/Special Use Permit Amendment is recorded in the office of the County Recorder.

8. Before issuance of any building permits, complete grading and working drawings shall be submitted to Development Services for approval. Plans shall be in substantial conformance to Exhibit "A," dated February 27, 1992, on file in the office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

9. Before issuance of any grading or building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to Development Services for approval. The plans shall be in substantial conformity to Exhibit "A," dated June 3, 1997, on file in the office of the Development Services. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this permit has been amended and is to be maintained in a disease, weed and litter free condition at all times.

10. The property included within this coastal development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the City Manager or the permit has been revoked by the City of San Diego.

11. This Coastal Development/La Jolla Planned District/Special Use Permit Amendment may be canceled or revoked if there is a material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City of San Diego or Permittee.

12. This Coastal Development/La Jolla Planned District/Special Use Permit Amendment is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

13. The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and City Manager and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.

14. To the extent this conditions is consistent with state and local laws, this project shall comply with the standards, policies and requirements in effect at the time of approval of this project, including any successor or new policies, financing, mechanisms, phasing schedules, plans and ordinances relating to growth management adopted by the City of San Diego after

1041

January 11, 1990. The Owner/Permittee may challenge the legality of the imposition of future requirements pursuant to this conditions at the time such future requirements and their impacts on the project are defined.

15. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.

16. The north end of the proposed cafe shall recess five feet southward to preserve the existing public view corridor toward the ocean.

17. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the installation of pedestrian ramps on Prospect Street opposite from the corners of Silverado Street and at Draper Street and at the corner of Coast Boulevard and Coast Boulevard South, adjacent to this site, in a manner satisfactory to the City Engineer.

18. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the removal of the drainage grate and high curb along the frontage on Prospect Street at the intersection with Draper Street, in a manner satisfactory to the City Engineer.

19. Prior to the issuance of any building permits, the applicant shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301).
- ~~c. Post indicator valves, Fire Department connections, and alarm bell are to be located on the address/access side of the structure (UFC 10.301).~~

20. Unless appealed this Coastal Development/La Jolla Planned District Special Use Permit Amendment shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action.

21. This Coastal Development Permit/La Jolla Planned District Permit/Special Use Permit Amendment No. 96-0257 must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted as set forth in Section 111.1122 of the Municipal Code.

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1042

22. This Coastal Development Permit Amendment incorporates La Jolla Planned District and Special Use Permits. The La Jolla Planned District/Special Use Permit Amendment shall not be valid until the Coastal Development Permit Amendment becomes effective.

23. All of the conditions contained in this permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this permit be required to comply with each and every condition in order to be afforded special rights which the holder of the permit is obtaining as a result of this permit. It is the intent of the City that the owner of the property which is the subject of this permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property, or the special and extraordinary rights conveyed by this permit, but only if the owner complies with all the conditions of this permit.

In the event that any condition of this permit, on a legal challenge by the Owner/Permittee of this permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this permit shall be void. However, in such event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition back to the discretionary body which approved the permit for a determination by that body as to whether all of the findings necessary for the issuance of the permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

APPROVED by the Council of The City of San Diego on June 3, 1997, by Resolution No. R-288754.

1043

AUTHENTICATED BY THE CITY MANAGER

By 

Tina P. Christiansen, A.I.A.  
Development Services Manager  
for the City Manager

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

SAN DIEGO MUSEUM OF  
CONTEMPORARY ART

Owner/Permittee

By 

By \_\_\_\_\_

NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.

06/20/97

09/24/97 COR.COPY

LADUVERNAYPERMITS95-0257.PER

