

**CALENDAR ITEM
C61**

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04/23/15
W 26805
A. Franzoia

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

City of Waterford (City)

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Tuolumne River, adjacent to the city of Waterford, Stanislaus County.

AUTHORIZED USE:

Construction, use, and maintenance of a public non-motorized boat launch ramp in the Tuolumne River.

LEASE TERM:

25 years, beginning April 23, 2015.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

1. At least two weeks prior to the start of construction, Lessee agrees to post signs on the upland parking lot indicating the dates that the construction will begin and duration of closure of the river access. At all times during construction, Lessee agrees to install precautionary signage or warning buoys upstream and downstream of the construction.
2. No construction work of any kind shall be done within the limits of the Tuolumne River Designated Floodway during the flood season from November 1 to July 1 without prior written approval from the Central Valley Flood Protection Board.
3. Instream construction will occur between August 1 and September 15 to avoid the presence of listed anadromous fish.

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4. Best management practices (BMPs) to control soil erosion and reduce water quality impacts will be employed such as silt fences, silt screens, straw wattles, erosion control mats, stockpile management, and discharge of petroleum products. A silt curtain will be installed for instream work to isolate sediment and turbidity.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. The proposed Tuolumne River Parkway Project is located within an approximately 1.25-mile open space corridor along the right bank of the Tuolumne River at the terminus of North Appling Road. The proposed project will expand River Park to include a non-motorized boat launch ramp creating greater public access to the Tuolumne River.
3. The river bank will be graded for the installation of a concrete boat launch ramp that will extend below the ordinary high water level and low water level of the Tuolumne River, extending onto State-owned sovereign land.
4. The City has now applied for a Lease to construct, use, and maintain the boat launch ramp. The proposed project objective is to improve the existing recreational access to the Tuolumne River and is being financed through the California Natural Resources Agency's California River Parkways Program.
5. The City proposes to construct a 78.5-foot by 28-foot concrete boat ramp. The upland portion of the proposed project consists of removing existing access road asphalt concrete, concrete curb, fish cleaning station, and light pole with concrete foundation, and capping an existing water pipe west of the main water pipe. In addition, the City proposes to remove approximately 30 trees during the construction period. The upland construction consists of a new paved parking area, plumbed restrooms, sewer lift station to pump sewage to a neighboring sewage treatment plant, fish cleaning station, installation of electrical facilities and lighting, security access for the site, a sidewalk adjacent to the top of the ramp, and signage installation.
6. A Mitigated Negative Declaration, State Clearinghouse No. 2013082058, was prepared by the city of Waterford and adopted on October 3, 2013, for this project. The California State Lands Commission staff has reviewed such document. A Mitigation Monitoring Program was adopted by the City.

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7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the California Environmental Quality Act (CEQA) review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

California Natural Resources Agency
California Department of Fish and Wildlife
Central Valley Flood Protection Board
California Regional Water Quality Control Board
U.S. Army Corps of Engineers

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2013082058, and a Mitigation Monitoring Program were prepared by the city of Waterford and adopted on October 3, 2013, for this Project and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the city of Waterford beginning April 23, 2015, for a term of 25 years, for a non-motorized boat launch ramp, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference

CALENDAR ITEM NO. **C61** (CONT'D)

made a part hereof; consideration being the public benefit with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

EXHIBIT A

W 26805

LAND DESCRIPTION

A parcel of submerged land, situate in the bed of the Tuolumne River, adjacent to Section 34, T.3 S., R.11 E., MDM, Stanislaus County, California, and more particularly described as follows:

Said parcel being bounded on the north by the ordinary low water mark of the right bank of the Tuolumne River; bounded on the south by a line parallel with and 20 feet southerly of said ordinary low water mark; bounded on the east by the southerly prolongation of the easterly line of Parcel C as shown on a Parcel Map filed February 29, 1968 in Book 5 of Parcel Maps, at Page 12 in the office of the County Recorder of said County; bounded on the west by the southerly prolongation of the westerly line of said Parcel C.

END DESCRIPTION

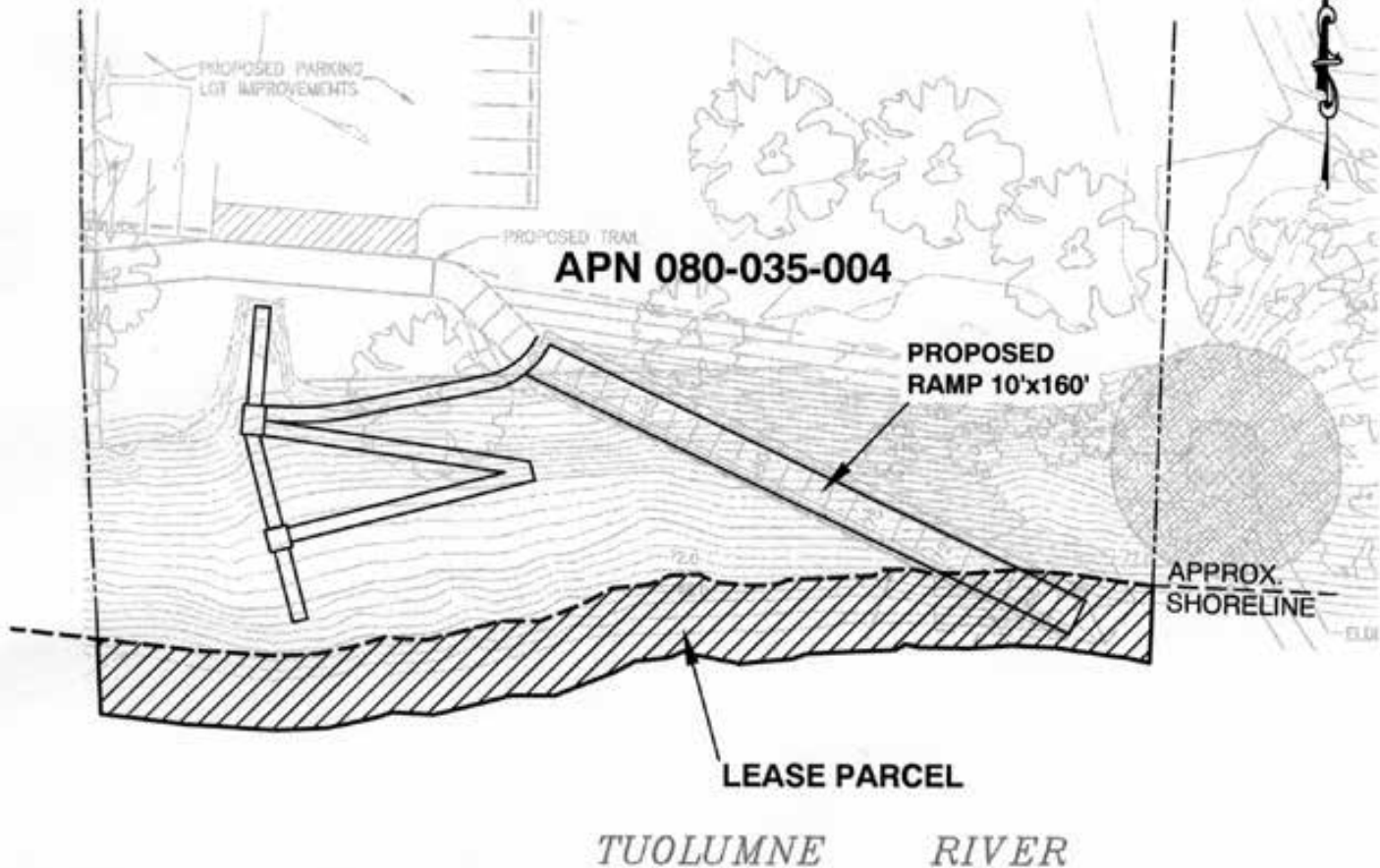
This description is based on Applicant provided design plans, by MCR Engineering, dated December 2014, for a proposed concrete boat ramp and fishing/observation dock, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 02/23/15 by the California State Lands Commission Boundary Unit



NO SCALE

SITE



225 N. APPLING ROAD, RIVER PARK, CITY OF WATERFORD

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26805
 CITY OF WATERFORD
 APN 080-035-004
 GENERAL LEASE -
 PUBLIC AGENCY USE
 STANISLAUS COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
TUOLUMNE RIVER PARKWAY PROJECT
(State Clearinghouse No. 2013082058)

The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the Tuolumne River Parkway Project (Project). The CEQA lead agency for the Project is the City of Waterford.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to discuss feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:¹

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency has adopted a MMP for the whole of the Project (see Exhibit C, Attachment C-1) and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. Mitigation measures included in the lead agency's MMP for impacts not within the Commission's jurisdiction have been omitted from the Commission's MMP. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

- Additions to the text of the mitigation measure are underlined; and
- Deletions of the text of the mitigation measure are shown as ~~strikeout~~ or as otherwise noted. A mitigation number and title has been assigned to each measure (as shown in Table C-1).

¹ The State CEQA Guidelines are found at California Code of Regulations, Title 14, section 15000 et seq.

Table C-1. Project Impacts and Applicable Mitigation Measures.

| Potential Impact ² | Mitigation Measure (MM) ³ | Difference Between the Commission's MMs and Lead Agency MMs |
|---|--|---|
| Biological Resources Checklist (a)(b)(c)(d) | MM BIO-6. Nesting Birds (see pages 2 & 3 of Attachment C-1). | None. |
| Biological Resources Checklist (a)(b)(c)(d) | MM BIO-7. Western Pond Turtle (see page 3 of Attachment C-1). | None. |
| Biological Resources Checklist (a)(b)(c)(d) | MM BIO-8. Biological Awareness Training (see pages 3 & 4 of Attachment C-1). | None. |
| Biological Resources Checklist (a)(b)(c)(d) | MM BIO-9. In-Water Construction Timing (see page 4 of Attachment C-1). | None. |
| Biological Resources Checklist (a)(b)(c)(d) | MM BIO-10. Jurisdictional Waters (see page 4 of Attachment C-1). | None. |
| Biological Resources Checklist (a)(b)(c)(d) | MM BIO-11. Federally Listed Species (see page 4 of Attachment C-1). | None. |
| Biological Resources Checklist (a)(b)(c)(d) | MM BIO-12. Streambed Alteration Agreement (see page 4 of Attachment C-1). | None. |
| Cultural Resources Checklist (b)(d) | MM CULT-1. Cultural Resources Discovery (see page 5 of Attachment C-1). | Language was added to identify the Commission's interest in archaeological/historical resources (see modification below). |
| Cultural Resources Checklist (b)(d) | MM CULT-2. Human Remains (see pages 5 & 6 of Attachment C-1). | None. |
| Cultural Resources Checklist (c) | MM CULT-3. Paleontological Resources (see page 6 of Attachment C-1). | Language was added to identify the Commission's interest in paleontological specimens (see modification below). |

CULT-1. If any subsurface cultural resources are encountered during project construction, all construction activity in the vicinity of the encounter shall cease until a qualified archaeologist examines the materials, determines their significance, and recommends mitigation measures that would reduce potentially significant impacts to a less than significant level, in accordance with CEQA. The City of Waterford shall be immediately notified of the discovery and the City or its contractor shall be responsible for retaining a qualified archaeologist and for implementing recommended mitigation measures. The final disposition of archaeological and historical resources recovered on State lands under the jurisdiction of the State lands Commission must be approved by the Commission.

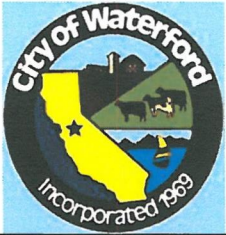
² Refer to the CEQA checklist for each resource area in the MND.

³ See Attachment C-1 for the full text of each MM taken from the MMP prepared by the CEQA lead agency.

CULT-3. If any paleontological resources are encountered during project construction, all construction activity in the vicinity of the encounter shall cease until a qualified paleontologist examines the materials, determines their significance, and recommends mitigation measures that would reduce potentially significant impacts to a less than significant level, in accordance with CEQA. The City of Waterford shall be immediately notified of the discovery, and the City or its contractor shall be responsible for retaining a qualified paleontologist and for implementing recommended mitigation measures. The final disposition of paleontological resources recovered on State lands under the jurisdiction of the State lands Commission must be approved by the Commission.

ATTACHMENT C-1

**Mitigation Monitoring Program Adopted by the
City of Waterford**



TUOLUMNE RIVER PARKWAY PROJECT
Mitigation Monitoring & Reporting Program

| Environmental Issue | Proposed Mitigation | Mitigation Monitoring Reporting Responsibility | Mitigation Reporting and/or Monitoring Program <i>(Including timing in which mitigation measure should be implemented)</i> |
|-----------------------------|---|---|---|
| Biological Resources | 1. Construction in the vicinity of the blue elderberry shrubs shall occur between June 15 and April 15, the period when VELB, if present, would be within the stems of the shrubs. | City Engineer* | The Project Engineer shall schedule construction activities in the vicinity of blue elderberry shrubs to occur within the specified work period. |
| | 2. Disturbance of blue elderberry shrubs in the vicinity of proposed facilities shall be avoided by prohibiting grading activities within 10 feet of the drip lines of the elderberry shrubs. Prior to construction, a qualified biologist shall review the trail alignment in the field and identify sections along the proposed trail requiring modifications as described above; these modifications shall be depicted on the project plans. | City Engineer | The project plans shall require the contractor to avoid disturbance of elderberry shrub areas as specified. The Project Engineer shall retain a qualified biologist to identify areas where disturbance should be prohibited and/or project plans modified to avoid disturbance of elderberry shrubs, and such areas shall be shown on the project plans. |
| | 3. Temporary construction fencing shall be installed around blue elderberry shrubs that are located within 30 feet of proposed facilities prior to construction. The fencing shall be erected and maintained 20 feet from the | City Engineer | Prior to construction, the contractor shall install required construction fencing and signage, subject to the review and approval of the Project Engineer. The |

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| | dripline of the shrubs, if possible. In cases where the shrubs are closer than 20 feet from construction activities, the fencing shall be as far away from the dripline as possible. Signs shall be installed on the fencing stating: “This area is potential habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment.” | | Project Engineer may, if required, obtain the services of a qualified biologist to assist in directing the fencing process. |
| | 4. Pre-construction surveys for nesting Swainson’s hawks within 0.5 miles of the work areas will be conducted for construction activities between March 1 and September 15. The surveys shall incorporate methodologies from CDFG’s 1994 Staff Report regarding Mitigation for Impacts to Swainson’s Hawks (<i>Buteo swainsoni</i>) in the Central Valley of California. If active nests are found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. | City Engineer | The Project Engineer shall retain a qualified biologist to perform preconstruction surveys and recommend temporal restrictions. The project plans shall require contractor compliance with any necessary temporal restrictions. |
| | 5. Pre-construction surveys for nesting burrowing owls within 250 feet of the site should be conducted for construction activities between February 1 through August 31. If active nests are found, a qualified biologist should determine the need (if any) for temporal restrictions on construction; this determination should be made pursuant to criteria set forth by CDFG (2012). | City Engineer | The Project Engineer shall retain a qualified biologist to perform preconstruction surveys and recommend temporal restrictions. The project plans shall require contractor compliance with any necessary temporal restrictions. |
| | 6. Trees, shrubs, and grasslands in the area could be | City Engineer | The Project Engineer shall retain a |

BIO-6

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| BIO-6 (cont'd) | used by other birds protected by the Migratory Bird Treaty Act of 1918. Any vegetation removal during the avian nesting season (February 1 through August 31) shall be immediately preceded by survey. If active nests are found, adequate marking of the nest site shall be provided and vegetation removal in the vicinity of the nest shall be delayed until the young fledge. | | qualified biologist to perform preconstruction surveys for migratory birds, identify areas where vegetation removal will be prohibited, and specify when vegetation removal may occur in these areas. The project plans shall require contractor compliance with any necessary vegetation removal restrictions. |
| BIO-7 | 7. Pre-construction surveys for western pond turtle and their nests will be conducted prior to construction of the boat ramp and fishing/observation dock. This will involve a search for nests in uplands adjacent to the river. If nest sites are located, a 50-foot buffer area around the nest shall be staked and work will be delayed until hatching is complete and the young have left the nest site. | City Engineer | Prior to construction of the boat launch and dock projects, the Project Engineer shall retain a qualified biologist to perform preconstruction surveys as specified, establish the recommended buffer area, and determine when work may resume within the buffer area. The project plans shall require conformance with these recommendations. |
| BIO-8 | 8. A biological worker awareness training program shall be implemented to educate the constructions crews of the biological diversity within the project area. The worker awareness program shall include a presentation on the life history and legal status of potentially occurring special-status species and distribution of informational packages to each worker. While all of the potentially-occurring species will be at least briefly addressed, the focal species of the worker awareness training program will be VELB, listed salmonids, Swainson's hawk, burrowing owl, and western pond | City Engineer | The Project Engineer shall retain a qualified biologist to conduct the biological worker awareness training program prior to construction. |

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| | turtle. | | |
| BIO-9 | 9. In-water construction shall be scheduled between August 1 and October 31 to reduce the potential impacts to special-status fish that occur in Tuolumne River on a seasonal basis. This work window may be adjusted through consultation with CDFW and National Marine Fisheries Service (NMFS). | City Engineer | The Project Engineer will establish a work schedule for in-water project features that conforms to these requirements. |
| BIO-10 | 10. Permits from ACOE, CDFW and RWQCB, and a lease from the SLC, shall be secured prior to the placement of any fill material within the jurisdictional waters of the U.S. (i.e. construction of the boat ramp and fishing/observation dock). The City shall implement all permit conditions and mitigation measures related to the protection of sensitive aquatic habitats and species. BIO-8 | City Engineer | The Project Engineer shall prepare applications and obtain the required permits prior to construction. Observance of conditions and mitigation measures attached to the permit approvals shall be included in the project plans and specifications. |
| BIO-11 | 11. Potential project impacts to federally listed species associated with construction of the boat ramp, fishing/observation dock, and channel modification will be addressed through the USFWS Section 7 consultation process for impacts to VELB, and NMFS for potential impacts to salmonids, in conjunction with processing of the ACOE permit for the proposed boat ramp and dock. | City Engineer | The Project Engineer shall participate in the Section 7 consultation process as required to advance review and approval of the ACOE permit application. |
| BIO-12 | 12. The City shall notify CDFW of work involving the modification of the bed or bank of the Tuolumne River. The City shall enter into a Streambed Alteration Agreement with CDFW for portions of the project falling within CDFW jurisdiction. | City Engineer | The Project Engineer shall prepare and submit notices and agreements as required to obtain and comply with the CDFW permit for the boat ramp and dock. |

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| | 13. A permit shall be secured from the CVFPB for work within the state-designated floodway. | | The Project Engineer shall obtain the required permit prior to construction. Observance of permit conditions and mitigation measures shall be required in the project plans and specifications. |
| CULT-1 | Cultural Resources 1. If any subsurface cultural resources are encountered during project construction, all construction activity in the vicinity of the encounter shall cease until a qualified archaeologist examines the materials, determines their significance, and recommends mitigation measures that would reduce potentially significant impacts to a less than significant level, in accordance with CEQA. The City of Waterford shall be immediately notified of the discovery and the City or its contractor shall be responsible for retaining a qualified archaeologist and for implementing recommended mitigation measures. | City Engineer | The Project Engineer shall include this requirement in the plans and specifications and ensure that the contractor is aware of these requirements and is prepared to provide notification and retain a qualified archaeologist in the event of a discovery. The Project Engineer will oversee the archaeologist's work, ensure that the archaeologist's recommendations are followed, and ensure that a written report is made to the City of the discoveries, the cultural resource values associated with the discovery and the archaeologist's recommendations for disposition of the resources in accordance with CEQA. |
| CULT-2 | 2. If human remains are encountered at any time during project construction, all construction activity in the vicinity of the encounter shall cease, and the County Coroner and the City of Waterford shall be notified immediately. The Coroner will contact the Native American Heritage Commission if the remains have been identified as being of Native American descent. The City | City Engineer | The Project Engineer's responsibilities shall be as described for Mitigation Measure #1, with the addition that the County Coroner shall be immediately notified in the event of the discovery of human remains. |

CULT-2
(cont'd)

or its contractor shall implement the requirements of the CEQA Guidelines, which detail steps to be taken when human remains are found to be of Native American origin. The City of Waterford or its contractor shall also retain a qualified archaeologist to evaluate the archaeological implications of the find and recommend any mitigation measures needed to reduce any potentially significant effects to a less than significant level under CEQA. The City or its contractor shall implement those recommendations.

CULT-3

3. If any paleontological resources are encountered during project construction, all construction activity in the vicinity of the encounter shall cease until a qualified paleontologist examines the materials, determines their significance, and recommends mitigation measures that would reduce potentially significant impacts to a less than significant level, in accordance with CEQA. The City of Waterford shall be immediately notified of the discovery, and the City or its contractor shall be responsible for retaining a qualified paleontologist and for implementing recommended mitigation measures.

City Engineer

The Project Engineer shall include this requirement in the plans and specifications and ensure that the contractor is aware of these requirements and is prepared to provide notification and retain a qualified paleontologist in the event of a discovery. The Project Engineer will oversee the paleontologist's work, ensure that the paleontologist's recommendations are implemented, and ensure that a written report is made to the City of the discoveries, the cultural resource values of the discovery, the paleontologist's recommendations and the response to those recommendations.

Note: *Under "Responsibility," City may substitute "Contractor under the supervision of the Project Engineer" for "Project Engineer"