

City of King
Standard Conditions of Approval for Cultural Resources



EXHIBIT 1

CITY'S STANDARD CONDITION OF APPROVAL CULTURAL RESOURCES

(No Substantial Evidence That Archaeological Resources
or Tribal Cultural Resources are on Project Site)

Standard Cultural Resource Conditions: The following cultural resource conditions of approval (COA) are applicable to all approved applications. Prior to and during construction of each phase or individual construction activity undertaken as part of the project and to mitigate potential impacts to cultural resources, the following steps shall be taken and documented in writing:

- **Prior to excavation and construction on the project site,** the prime construction contractor and any subcontractor(s) shall be cautioned on the legal and/or regulatory implications of knowingly destroying historic or prehistoric cultural resources or removing artifacts such as, but not limited to, prehistoric ground stone, projectile points, shell middens, or debitage, human remains, historic materials such as, but not limited to, bottles or cans and other cultural materials from the project site.

Responsibility: Project Applicant, Prime Construction Contractor, Subcontractors

Timing: Prior to excavation and construction

Funding: Project Applicant

- **Prior to any demolition, excavation, or construction,** the project applicant shall identify a Qualified Archaeologist to be on call if any cultural resources are identified, or if required by the City when project excavation of four (4') feet or great is needed. A Qualified Archaeologist shall meet the Secretary of the Interior qualifications for an archaeologist and have demonstrated expertise and experience in the identification of tribal artifacts and tribal cultural resources. The City shall approve the selected archaeologist **prior to issuance of the any permit that includes soil disturbance.**

Responsibility: Project Applicant, City (compliance monitoring)

Timing: Prior to any demolition, excavation or construction.

Funding: Project Applicant

- **Prior to soil disturbing activities to search for surface evidence of historic or prehistoric cultural resources,** if a project survey has not been conducted as part of the project application process, the Qualified Archaeologist shall conduct a pedestrian survey of the project site. The archaeologist shall be authorized to perform spot check monitoring of subsurface construction for potential cultural resources, and analyze and evaluate artifacts or resources that may be uncovered. The qualified archaeologist shall also have the authority to temporarily halt excavation and construction activities in the immediate vicinity (within a 50-meter radius, or approximately 164-feet) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

Responsibility: Project Applicant's Archaeologist, City (compliance monitoring)

Timing: Prior to soil disturbing activities to search for surface evidence of historic or prehistoric cultural resources.

Funding: Project Applicant

- In the event of a find, reasonable time shall be allowed for the qualified archaeologist to conduct additional subsurface testing, analysis, and reporting, if warranted. During this time, excavation and construction shall not be allowed in the immediate vicinity of the find within a 50-meter radius (or approximately 164-feet), or within a larger area as determined by the qualified archaeologist. However, activities may continue in other areas of the project site if so, determined by the qualified archaeologist.
- If any find is determined to be significant by the qualified archaeologist, representatives of the project developer or construction contractor and the City, and the qualified archaeologist, shall meet to determine the appropriate course of action.

Responsibility: Project Archaeologist, Project Applicant, Construction Contractor, City (compliance monitoring)

Timing: Prior to any work within a 50-meter radius, or approximately 164-feet, of the find

Funding: Project Applicant

- All cultural materials recovered as part of the testing or monitoring program shall be subject to scientific analysis, professional museum curation, and reporting prepared according to current professional standards. A copy of the report and analysis shall be provided to the California Historical Resources Information System Northwest Information Center for recordation.

Responsibility: Project Archaeologist, City (compliance monitoring)

Timing: After Report and Analyses is completed

Funding: Project Applicant

- If the Qualified Archaeologist determines the find is a potential tribal cultural resource, the Qualified Archeologist shall immediately establish an appropriate sensitive area boundary around the find where ground disturbance activities may not take place until authorization from the Qualified Archaeologist. This boundary may be different than the 50 meter radius initially established. The Applicant shall contact the tribes that are traditionally and culturally affiliated with the geographic area where the project site is located (tribes) and provide the tribes a reasonable opportunity to inspect the find. In consultation with the tribes that actually inspected the find, the monitor shall verify the appropriateness of the sensitive area boundary and prepare a mitigation plan that contains recommendations concerning appropriate measures to be implemented to preserve and protect the tribal cultural resource and other tribal cultural resources that may be found at the project site consistent with recommended mitigation protocols set forth in PRC, sections 21083.2 and 21084.3, with preservation in place or leaving the resource in an undisturbed state being the preferred approach to mitigation, and for the monitoring of all future ground disturbance activities on the project site for additional tribal cultural resources, subject to the requirements set forth below, including the depth below surface grade when monitoring is required. This mitigation plan shall be submitted to the Community Development Director for approval. After the Community Development Director approves the mitigation plan, the Applicant shall comply with the recommendations in the mitigation plan and maintain written documentation of compliance available for City inspection at the project site, or at applicant's place of

business, for at least one year after issuance of the final Certificate of Occupancy. Any disagreements regarding the content or implementation of the mitigation plan shall be submitted to the Community Director for a final decision after consultation with the Qualified Archaeologist/Qualified Tribal Monitor, the tribes that actually inspected the original find and the Applicant. After the mitigation plan is approved ground disturbance activities may restart within the sensitive area boundary only with the Qualified Archeologist's approval after consulting with the tribes that actually inspected the original find. In addition to payment of all fees and costs of the Qualified Archaeologist, the Applicant shall pay any reasonable fees assessed by the tribes that actually inspected the find to (1) inspect the find, (2) consult on the mitigation plan and/or (3) provide a Qualified Tribal Monitor, as described below, to monitor ground disturbance activities if required by the mitigation plan. The tribes' fees for services provided shall not exceed the hourly fees and rates of the Qualified Archaeologist. If the mitigation plan requires monitoring of all ground disturbance activities at the project site, the Applicant shall first attempt to retain a Qualified Tribal Monitor meeting the requirements below to monitor the ground disturbance activities. However, if after a reasonable period of time, as determined by the Community Development Director, the Applicant is unable to retain a Qualified Tribal Monitor meeting the requirements below or because the Qualified Tribal Monitor's hourly rates exceed those of the Qualified Archaeologist and/or multiple qualified tribes request to provide monitoring by a Qualified Tribal Monitor and they are unable to reach agreement among themselves as to the provision of a single Qualified Tribal Monitor for the project site, the Applicant may retain the Qualified Archaeologist, who satisfies the monitor requirements set forth below, to monitor the ground disturbance activities. The selected Qualified Archaeologist or Qualified Tribal Monitor shall not delegate any monitoring obligations to a third party without first obtaining the Applicant's approval.

Monitor Requirements: Only a Qualified Archaeologist or a Qualified Tribal Monitor shall be permitted to monitor ground disturbance activities at the project site as part of the implementation of the mitigation plan. A Qualified Archaeologist or Qualified Tribal Monitor is not permitted to delegate the task of monitoring ground disturbance activities to persons that do not meet the requirements of a Qualified Archaeologist or Qualified Tribal Monitor. The Qualified Archaeologist or Qualified Tribal Monitor shall be contractually required to monitor ground disturbance activities at the project site at all times identified by the Applicant when ground disturbance activities are scheduled to take place. The Qualified Archaeologist or Qualified Tribal Monitor shall not be paid for time at the project site when ground disturbance activities were not scheduled to take place, unless the Applicant or its representative has requested the monitor's presence at the project site. In addition, the Qualified Tribal Monitor shall have demonstrated expertise and experience in the identification of tribal artifacts, shall be a member of a tribe that is traditionally and culturally affiliated with the geographic area where the project site is located and shall demonstrate the following to the reasonable satisfaction of the Applicant:

- i. The Qualified Tribal Monitor has the Tribe's authority to make daily decisions on Native American beliefs, wishes or policy and that consultation with other tribal members with authority and/or experience shall be infrequent and will not delay project progress.
- ii. The Qualified Tribal Monitor has the tribe's authority to consult with the Qualified Archaeologist on the archaeological investigations.
- iii. The Qualified Tribal Monitor shall report to the appropriate tribal members on project progress, activities, finds and problems by whatever methods are appropriate.
- iv. The Qualified Tribal Monitor has the tribe's authority to lodge a formal complaint with the appropriate governmental agency, such as the City or the Native American Heritage Commission.
- v. The Qualified Tribal Monitor shall be available to monitor ground disturbance activities at all times during scheduled construction days and hours.
- vi. The Qualified Tribal Monitor shall submit to the Construction Contractor a daily log setting forth the hours that monitoring took place, whether any tribal artifacts were identified and, if so, whether the tribal artifact was determined to be a tribal cultural resource.

Responsibility: Project Contractor, Project Applicant, City (compliance monitoring)

Timing: In Event of Discovery of a tribal artifact or tribal cultural resource

Funding: Project Applicant

In accordance with *State CEQA Guidelines*, Section 15064.5 (e)(1)(A)(B), in the event of the discovery or recognition of any human remains on the project site during development, the following steps shall be taken:

- There shall be no further excavation or disturbance of the site or any area reasonably suspected to overlie adjacent human remains until the County coroner is contacted to determine that no investigation of the cause of death is required. Possible indications of burials could include a layer of shells placed over the burial.
- If the coroner determines the remains to be Native American, then the coroner shall contact the Native American Heritage Commission ("**Commission**") within twenty-four (24) hours. The Commission shall identify the person or persons it believes to be the most likely descendent ("**MLD**") from the deceased Native American. The MLD may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98.

Responsibility: Project Contract, Project Applicant, City (compliance monitoring)

Timing: In Event of Discovery or Recognition of any Human Remains

Funding: Project Applicant

- Where the following conditions occur, the landowner or their authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if the:
 - a) Commission is unable to identify an MLD or the MLD failed to make a recommendation within forty-eight (48) hours after being notified by the Commission;
 - b) Descendent identified fails to make a recommendation; or
 - c) Landowner or their authorized representative rejects the recommendation of the descendent, and the mediation by the Commission fails to provide measures acceptable to the landowner.

Responsibility: Project Applicant, NAHC, MLD, City (compliance monitoring)

Timing: After Discovery of Human Remains

Funding: Project Applicant