



County of San Diego

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MITIGATED NEGATIVE DECLARATION

November 12, 2019

Project Name: Ashwood Street Corridor Improvements Project

Project Number(s): 1018734

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

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

- a. Initial Study – Environmental Checklist Form
- b. Attached technical studies for air quality, biological resources, cultural resources, greenhouse gas emissions, noise, and visual/aesthetic resources.

1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period, and; on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project will have a significant effect on the environment.

2. Required Mitigation Measures:

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

A. BIOLOGICAL RESOURCES

1. Coastal California Gnatcatcher

- a. Permanent impacts would occur to approximately 0.70 acre of the project site that is considered occupied habitat (i.e., use area) by the federally-threatened

coastal California gnatcatcher (*Polioptila californica californica*; CAGN). As the project is located within the adopted South County MSCP, and as CAGN is a covered species by the MSCP, this direct impact would be fully mitigated below a level of significance through habitat-based compensation for the permanent loss of Diegan coastal sage scrub in accordance with the Biological Mitigation Ordinance.

- b. To mitigate direct impacts (e.g., vegetation removal): no grubbing or clearing of vegetation shall occur of occupied Diegan coastal sage scrub during the breeding season of the coastal California gnatcatcher (March 1 – August 15). All grading plans, improvement plans, and the final map shall state the same. If clearing or grading would occur during the breeding season for the gnatcatcher, a pre-construction survey shall be conducted to determine whether gnatcatchers occur within the impact area(s). If there are no gnatcatchers nesting (includes nest building or other breeding/nesting behavior) within that area, grading and clearing shall be allowed to proceed. If, however, any gnatcatchers are observed, but no nesting or breeding behaviors are noted, additional surveys for breeding/nesting behaviors shall be conducted weekly. If any gnatcatchers are observed nesting or displaying breeding/nesting behavior during the pre-construction survey or additional weekly surveys within the area, construction within 300 feet of any location at which birds have been observed shall be postponed until all nesting (or breeding/nesting behavior) has ceased or until after August 15.
 - c. To mitigate indirect impacts (e.g., construction noise): if operation of construction equipment occurs during the breeding season for the coastal California gnatcatcher (March 1 – August 15), pre-construction survey(s) shall be conducted by a qualified biologist as appropriate to determine whether gnatcatcher occurs within the areas potentially impacted by noise. If it is determined at the completion of pre-construction surveys that active nests belonging to this species are absent from the potential impact area, construction shall be allowed to proceed. If pre-construction surveys determine the presence of active nests belonging to this species, then construction shall: (1) be postponed until a qualified biologist determines the nest(s) is no longer active or until after the respective breeding season; or (2) not occur until a temporary noise barrier or berm is constructed at the edge of the development footprint and/or around the piece of equipment to ensure that noise levels are reduced to below 60 dBA or ambient, whichever is greater. Decibel output will be confirmed by a County approved noise specialist and intermittent monitoring by a qualified biologist to ensure that conditions have not changed will be required. All grading permits, improvement plans, and the final map shall state the same.
2. To avoid impacts to upland migratory birds, grading, brush clearing, and all other construction within or adjacent to upland vegetation should be conducted outside the general migratory breeding season of February 15 to August 15 (inclusive of

coastal California gnatcatcher). To avoid impacts to tree-nesting raptors, construction within or adjacent to riparian habitat should occur outside the tree-nesting raptor breeding season of January 15 to July 15. If construction must occur during these periods, the following actions would be required:

- a. A qualified biologist shall conduct a pre-construction clearance survey for nesting birds within suitable habitat to determine whether coastal California gnatcatcher, other upland or migratory avian species, or raptors are nesting within 300 feet of the construction area. The pre-construction nesting bird surveys must be conducted prior to the commencement of construction activities.
 - b. If the aforementioned birds are not observed nesting within 300 feet of construction, no grading or construction restrictions would be required.
 - c. If nesting birds are found, nests will be noted, and no grading or clearing shall occur within 300 feet of the active nest. Monitoring will occur to ensure that no nest is removed or disturbed until the young have fledged or the nest is no longer active.
 - d. If construction must occur within 300 feet of an active nest, temporary sound barriers may be required or construction may be restricted near the nest site to reduce noise levels below an hourly average of 60 A-weighted decibels (dB[A] Leq) or ambient, whichever is greater. Any temporary sound barriers must be placed within the impact areas and not in the adjacent habitat.
3. Permanent impacts to coast live oak woodland, including 0.01 acre BRCA and 0.02 acre non-BRCA would be mitigated at a ratio of 2:1 and 1:1, respectively. This equates to a mitigation total of 0.04 acre (0.02 acre BRCA and 0.02 acre non-BRCA) of coast live oak woodland. All permanent impacts would be mitigated in the form of either enhancement, restoration, and/or creation of habitat; deduction of credits from a County-approved mitigation area; or other off-site preservation. Temporary impacts to 0.06 acre of coast live oak woodland would be mitigated at a 1:1 ratio onsite through the restoration of these areas to pre-construction conditions.
 4. Permanent impacts to Diegan coastal sage scrub, including 0.70 acre BRCA and 0.43 acre non-BRCA would be mitigated at a ratio of 1.5:1 and 1:1, respectively. This equates to a mitigation total of 1.48 acres (1.05 acres BRCA and 0.43 acre non-BRCA) of Diegan coastal sage scrub. All permanent impacts would be mitigated in the form of either enhancement, restoration, and/or creation of habitat; deduction of credits from a County-approved mitigation area; or other off-site preservation. Temporary impacts to 5.56 acres of Diegan coastal sage scrub would be mitigated at a 1:1 ratio onsite through the restoration of these areas to pre-construction conditions.

5. Permanent impacts to non-native grassland, including 0.10 acre BRCA would be mitigated at a ratio of 1:1. This equates to a mitigation total of 0.10 of non-native grassland. All permanent impacts would be mitigated in the form of either enhancement, restoration, and/or creation of habitat; deduction of credits from a County-approved mitigation area; or other off-site preservation. Temporary impacts to 0.22 acre of non-native grassland would be mitigated at a 1:1 ratio onsite through the restoration of these areas to pre-construction conditions.

B. CULTURAL RESOURCES

1. Impacts to CA-SDI-4901 would be mitigated through implementation of a Data Recovery Program prior to construction, in addition to a Construction Monitoring Program during construction.
 - a. Data Recovery Program (prior to construction):

A research design is required as part of the Data Recovery Program. The research design will guide the Data Recovery Program by proposing research questions that could be addressed by the excavations. Such questions may include chronological site placement, site function, subsistence patterns practiced at the site, and trade and exchange patterns the site may have been a part of. For the field work portion of the Data Recovery Program, a two-phased data recovery program would be implemented:

- i) Phase I would consist of excavation of 30 1x1-meter units within this area. They would be excavated to the bottom of the cultural deposit. Thirty 1x1-meter units represent approximately 1.5 percent of the total impacts. It is felt that thirty units would adequately sample the full horizontal extent of the subsurface deposit and reveal any intra-site distribution of artifact types and spatial variations in quantities of artifacts/faunal remains not revealed during the testing. All excavations would be observed by a Native American monitor.

All units would be hand-excavated in 10-centimeter increments, until two 10-centimeter levels have been dug into sterile subsoil. Soils would be dry-screened through a one-eighth-inch mesh screen. The artifacts and ecofacts will be removed and placed in appropriately labeled bags to be cleaned, cataloged, and analyzed. Shellfish remains would be speciated and weighed, but not counted. Any human remains or potential human remains and grave goods would be treated respectfully and appropriately and repatriated to the Native American community.

The results from Phase I would be compared to the results from the test excavation conducted by RECON as discussed in the project's Cultural Resources Survey and Test Excavations Report. A lack of intra-site variation in artifact distribution, no noticeable increase in amounts of

material recovered per volume excavated, or the lack of features would mirror the initial testing results and indicate redundancy in data. Redundancy is the point at which continued excavation would produce only larger amounts of already represented data.

- ii) If intra-site variability in artifact type clustering, artifact density clustering, or features are discovered, redundancy would not be achieved and a second phase of data recovery would begin. Phase II would involve excavating up to an additional 30 1x1-meter units. These units would be placed in areas where Phase I units indicated variations in vertical or horizontal artifact distribution, density variation, or feature locations. The Phase II excavation would produce additional data for a greater opportunity to resolve research questions. A total of 3 percent of the site would be excavated at the end of Phase II.

If human remains are discovered during the data recovery excavations, existing laws and protocols will be followed before proceeding with any project action that would further disturb the remains. Provisions set forth in California PRC Section 5097.98 and state Health and Safety Code Section 7050.5 would be implemented in consultation with the Most Likely Descendent identified by the Native American Heritage Commission (NAHC).

After completion of the field investigations, an appropriate report shall be prepared. The report should include a discussion of the materials collected and an interpretation of the data within the research context. The artifact collection, along with all field notes and a copy of the final report, shall be curated at an approved curation facility, such as the SDAC.

b. Construction Monitoring Program (during construction):

- i) Prior to vegetation clearing and grading, a qualified archaeologist in consultation with the County DPW and a Native American representative would verify the location of ESA fencing installed by the contractor along the APE near CA-SDI-4901. No construction activity or equipment would be allowed in the areas behind the ESA fencing.
- ii) The Construction Monitoring Program would require both archaeological and Native American monitors to attend a pre-construction meeting and to be present during ground-disturbing activities, such as grading or installation of ESA fencing. The frequency of inspections would be determined by the Project Archaeologist in consultation with the Native American monitor and would vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features.

- iii) If previously unidentified potentially significant cultural resources are discovered, construction activities would be diverted away from the discovery and the resources evaluated for significance. Isolates and non-significant deposits would be minimally documented in the field. Significant archaeological discoveries include intact features, stratified deposits, previously unknown archaeological sites, and human remains. The Principal Investigator would inform the County Archaeologist of the discovery and together determine its significance. To mitigate potential impacts to significant cultural resources, a Data Recovery Program for any newly discovered cultural resource would be prepared by the Principal Investigator, approved by the County Archaeologist, and implemented using professional archaeological methods. Construction activities would be allowed to resume after the completion of the recovery of an adequate sample and the recordation of features.
- iv) All cultural material collected during the Data Recovery and Construction Monitoring Programs would be processed and curated at a San Diego County facility that meets federal standards per 36 Code of Federal Regulations Part 79 unless the tribal monitors request the collection.
- v) If human remains are discovered, work shall halt in that area and the procedures set forth in the California Public Resources Code (Section 5097.98) and State Health and Safety Code (Section 7050.5) will be followed. The Principal Investigator shall contact the County Coroner.
- vi) After the completion of the monitoring, an appropriate report shall be prepared. If no significant cultural resources are discovered, a brief letter shall be prepared. If significant cultural resources are discovered, a report with the results of the monitoring and data recovery (including the interpretation of the data within the research context) shall be prepared.

C. GEOLOGY AND SOILS

1. A monitoring program implemented by the excavation/grading contractor will be required. Equipment operators and others involved in the excavation should watch for fossils during the normal course of their duties. In accordance with the Grading Ordinance, if a fossil or fossil assemblage of greater than twelve inches in any dimension is encountered during excavation, all excavation operations in the area where the fossil or fossil assemblage was found shall be suspended immediately, the County's Permit Compliance Coordinator shall be notified, and a Qualified Paleontologist shall be retained by the applicant to inspect the find to determine if it is significant. A Qualified Paleontologist is a person who has:
 - a. A Ph.D. or M.S. or equivalent in paleontology or closely related field (e.g., sedimentary or stratigraphic geology, evolutionary biology, etc.);

- b. Demonstrated knowledge of southern California paleontology and geology; and
 - c. Documented experience in professional paleontological procedures and techniques.
2. If the Qualified Paleontologist determines that the fossil or fossil assemblage is significant; a mitigation program involving salvage, cleaning, and curation of the fossil(s) and documentation shall be implemented. If no fossils or fossil assemblages of greater than 12 inches in any dimension are encountered during excavation, a "No Fossils Found" letter will be submitted to the County Department of Public Works identifying who conducted the monitoring and that no fossils were found. If one or more fossils or fossil assemblages are found, the Qualified Paleontologist shall prepare a report documenting the mitigation program, including field and laboratory methodology, location and the geologic and stratigraphic setting, list(s) of collected fossils and their paleontological significance, descriptions of any analyses, conclusions, and references cited.
3. Critical Project Design Elements That Must Become Conditions of Approval:

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

A. AESTHETICS

1. The proposed retaining walls (i.e., soil nail wall and soldier pile wall) would be treated with colors, textures, and/or patterns, to the extent feasible, similar to the surrounding natural environment resembling the strata lines and colors of the local geology.

B. AIR QUALITY

1. As a dust control measure, watering of all active grading areas and similar activities of dust generation shall be conducted at least two times daily to minimize nuisance dust and particulate emissions during construction.

C. CULTURAL

1. An Environmentally Sensitive Area (ESA) would be designated around P-37-036611 and demarcated by temporary fencing during construction. Temporary fencing would include the following requirements:
 - a. Temporary ESA fencing shall be required along the APE where it intersects near the boundaries of P-37-036611.

- b. The location of the fencing shall be verified by the Project Archaeologist in consultation with the Kumeyaay Native American Monitor and the County Archaeologist. Monitors shall be present if installation of fencing requires excavation.
 - c. Upon approval of the fencing installation, the fencing shall remain in place until the conclusion of grading activities after which the fencing shall be removed.
 - d. Both archaeological and Native American monitors shall be present during ground-disturbing activities, such as temporary fence installation, grading, within 20 meters of P-37-036611.
2. An Environmentally Sensitive Area (ESA) would be designated around CA-SDI-8126, CA-SDI-8128, CA-SDI-22119/P-37-036612, and CA-SDI-22118/ P-37-036610 and demarcated by temporary fencing during construction. Temporary fencing would include the following requirements:
 - a. Temporary ESA fencing shall be required along the APE where it intersects near the boundaries of CA-SDI-8126, CA-SDI-8128, CA-SDI-22119/P-37-036612, and CA-SDI-22118/P-37-036610.
 - b. The location of the fencing shall be verified by the Project Archaeologist in consultation with the Kumeyaay Native American Monitor and the County Archaeologist. Monitors shall be present if installation of fencing requires excavation.
 - c. Upon approval of the fencing installation, the fencing shall remain in place until the conclusion of grading activities after which the fencing shall be removed.
 - d. Both archaeological and Native American monitors shall be present during ground-disturbing activities, such as temporary fence installation, grading, within 20 meters of CA-SDI-8126, CA-SDI-8128, CA-SDI-22119, and CA-SDI-22118.

D. HAZARDS AND HAZARDOUS MATERIALS

1. Prior to construction a Community Health and Safety Plan shall be prepared and implemented to protect the public and workers from potential burn ash material encountered during project construction.

E. NOISE

1. All construction equipment shall be properly maintained and equipped with noise-reduction intake and exhaust mufflers and engine shrouds, in accordance with

manufacturers' recommendations. Equipment engine shrouds shall be closed during equipment operation.

2. Whenever feasible, electrical power shall be used to run air compressors and similar power tools.
3. Equipment staging areas should be located as far as feasible from occupied residences.

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

on _____

Jeff Kashak, Land Use/Environmental Planning Manager
DPW Environmental Services Unit