



# County of San Diego

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## MITIGATED NEGATIVE DECLARATION

**PROJECT NAME:** Sandia Creek Drive Bridge Replacement/Fish Passage Project

**RECORD ID:** PDS2020-LDGRMJ-30309, PDS2020-LDPIIP-60093

**ENVIRONMENTAL LOG NO.:** PDS2021-ER-21-02-005

**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. Technical Studies and Reports as referenced.
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 that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as described and analyzed will have a significant effect on the environment.

2. Required Mitigation Measures:

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

### Aesthetics

- AES-1** **Lighting.** Contractor will direct lighting away from residential units to the north of project site. To address potential for construction lighting after sunset, San Diego County will require the construction contractor to develop a Construction Monitoring plan to include:

- Monitoring of lighting levels on the north bank of the river at junction of Sandia Creek Drive and Rock Mountain Drive.
- Directing construction lights away from the north bank of the river channel;
- Placing lights at the lowest feasible level relative to the ground surface to provide adequate working light.

## Biological Resources

### **BIO#1–REVEGETATION PLAN (M-BI-12)**

**INTENT:** In order to mitigate for the impacts to sensitive vegetation communities, which are sensitive biological resources pursuant to the Guidelines for Determining Significance for Biological Resources, revegetation shall occur. **DESCRIPTION OF REQUIREMENT:** A Revegetation Plan, shall be prepared, which mitigates impacts to temporary and permanent impacts to sensitive vegetation communities. The revegetation plan shall conform to the most current version of the [County of San Diego Report Format and Content Requirements for Revegetation Plans](#). The plan will include a project description, project impact assessment, and plans to provide compensatory mitigation with associated goals for the mitigation. The plan will include a description of the mitigation site, existing resources, and a pre-project assessment of the functions and values for the stream and associated riparian habitat within the limits of work. Tables 7 and 8 below show the project's permanent impacts, temporary impacts, required mitigation ratio, and mitigation acreage requirements that will be addressed in this revegetation plan. Based on Tables 7 and 8, 2.72 acres of the 4.07 acres of temporary impact will be restored to mitigate temporary impacts, leaving 1.85 acres that will be restored to mitigate the project's permanent impacts. The restoration plan will include a program of implementation, with any grading plans, site preparation, planting and seeding, irrigation design, weed control, as well as a schedule and rationale for success. To mitigate for permanent impacts to the Oak Root Zone, coast live oak saplings shall be included in restoration planting plans as appropriate. Based on Table 7 below, 0.26 acres of oak root zone will be impacted. With a 3:1 required mitigation ratio for these impacts, 0.78 acres of the mitigation site will be targeted for 150 oak sapling plantings (approximately 200 oak saplings/acre). The restoration plan will also include a 5-year maintenance and monitoring program that includes supplemental planting and seeding, irrigation, weed control (hand, mechanical, and/or chemical), herbivore protection, erosion control, site protection, and other maintenance activities. A qualitative and quantitative monitoring (methods and schedule) and reporting program will also be included in the plan, along with associated annual and final success criteria (80% cover and diversity relative to reference site, as well as 80% success for the oak saplings) for the restoration effort and final sign-off, including parameters tied to the documented existing functions and values of the site, as well as the specific project impact mitigation acreage requirements. The plan will also cover potential contingency measures, as well as estimated costs (including a 3% annual calculation) to implement and monitor the program. The revegetation plan, survey results and post-construction re-vegetation reports shall be provided to the County; as well as

reports demonstrating compliance with the project and The Wildlands Conservancy Long-Term Monitoring and Long-Term Management Plans. Following completion and sign off of the revegetation efforts, an open space easement shall be placed over the revegetated areas.

**Table 7**  
**Summary of Permanent Impacts and Mitigation for the Santa Margarita River Fish Passage and Bridge Replacement Project**

Vegetation Community/ Land Cover Type	Study Area (Acres)	Permanent Impacts (Acres)	County Mitigation Ratio	Mitigation Requirement (Acres)
Scrub oak chaparral (37900)	4.61	0.05	1:1	0.05
Non-native grassland (42200)	1.35	0.14	0.5:1	0.07
Southern cottonwood-willow riparian forest (61330)	5.55	0.17	3:1	0.51
Southern willow scrub (63320)	10.24	0.16	3:1	0.48
Coast live oak woodland (71160)	2.32	0.23	3:1	0.69
Eucalyptus woodland (79100)	0.28	0.08	None	None
Non-vegetated channel or floodplain (64200)	1.5	0.02	3:1	0.06
Disturbed habitat (11300)	1.45	0.12	None	None
Urban/developed (12000)	2.24	0.24	None	None
<b>Total</b>	<b>36.38</b>	<b>1.20</b>	<b>--</b>	<b>1.85</b>
<i>Oak Root Zone – 50 Foot Buffer Surrounding Coast Live Oak Woodland</i>				
Oak Root Zone	3.32	0.26	3:1	0.78

**Table 8**  
**Summary of Temporary Impacts and Mitigation for the Santa Margarita River Fish Passage and Bridge Replacement Project**

Vegetation Community/ Land Cover Type	Study Area (Acres)	Temporary Impacts (Acres)	County Mitigation Ratio	Mitigation Requirement (Acres)
Non-native grassland (42200)	1.35	1.00	0.5:1	0.50
Southern cottonwood-willow riparian forest (61330)	5.55	0.72	1:1	0.72
Southern willow scrub (63320)	10.24	0.68	3:1	2.04
Coast live oak woodland (71160)	2.32	0.04	3:1	0.12
Eucalyptus woodland (79100)	0.28	0.20	None	None
Fresh water (64140)	0.94	0.17	3:1	0.51
Non-vegetated channel or floodplain (64200)	1.5	0.11	3:1	0.33
Disturbed habitat (11300)	1.45	0.33	None	None
Urban/developed (12000)	2.24	0.83	None	None
<b>Total</b>	<b>36.38</b>	<b>4.07</b>	<b>--</b>	<b>4.22</b>

**DOCUMENTATION:** The applicant shall prepare the Revegetation Plan pursuant to this condition and by using the, [Applicants Guide to Preparing Revegetation Plans, PDS Form](#)

[# 717](#) then submit it to the *[PDS, ZONING]* and pay all the applicable review fees and deposits. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the Revegetation Plan shall be approved. **MONITORING:** The *[PDS, LA]* shall review the Revegetation Plan for conformance with this condition and the [Report Format and Content Requirements for Revegetation Plans](#). Upon approval of the Plan, a Director's Decision of approval shall be issued to the applicant, and a request for compliance with condition BIO#2 shall be made to enter into a Secured Agreement for the implementation of the Plan.

#### **BIO#2–SECURED AGREEMENT (M-BI-12)**

**INTENT:** In order to assure project completion and success of the Revegetation Plan in condition BIO#1, a surety shall be provided and an agreement shall be executed.

**DESCRIPTION OF REQUIREMENT:** The applicant shall enter into a Secured Agreement with the County of San Diego as follows:

- a. The security shall consist of a letter of credit, bond, or cash for 100 percent of the estimated costs associated with the implementation of the Revegetation Plan.
- b. Provide a 10 percent cash deposit of the cost of all improvements, but no less than \$3,000 and no more than \$30,000.
- c. The monitoring time and the length of time the Secured Agreement and cash deposit will be in effect starts at the time the installation is accepted by a County staff representative. The Secured Agreement and cash deposit shall be released upon completion of the Revegetation Plan implementation provided the installed vegetation is in a healthy condition and meets the 80 percent success criteria. Eighty percent success rate and one hundred percent vegetative cover, excluding herbaceous species, shall be considered satisfactory completion of the Revegetation Plan.

**DOCUMENTATION:** The applicant shall execute a Secured Agreement provided with the Revegetation Plan Final Decision and provide the approved securities and the cash deposit for County monitoring time. The executed Agreement, cash deposit, and the securities shall be submitted to the *[PDS, LA]* for final review and approval. **TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, and after the approval of the Revegetation Plan, the agreement shall be executed and the securities provided for the revegetation implementation.

**MONITORING:** The *[PDS, LA]* shall review the Agreement cash deposit and securities provided are in compliance with this condition, and the Revegetation Plan Final Decision. The *[PDS, LA]* shall sign the Agreement for the Director of PDS and ensure the cash deposit is collected by *[PDS, FISCAL]*. Upon acceptance of the Agreement, securities, and cash deposit, the *[PDS, LA]*, shall provide a confirmation letter-acknowledging acceptance of securities.

#### **BIO#3–TAKE AUTHORIZATION (M-BI-3) [PDS, FEE]**

**INTENT:** In order to comply with applicable regulations, including the Federal Endangered Species Act (FESA), for impacts to federally or state-listed species' habitat, Section 7 or Section 10(a)(1)(B) Consultation shall be obtained or verification from the respective resource agencies (USFWS) that a permit is not required shall be provided.

**DESCRIPTION OF REQUIREMENT:** Section 7 or Section 10(a)(1)(B) consultation shall

be completed, as necessary, to address impacts to federally or state-listed species' habitat. All terms and conditions developed as part of the Section 7 consultation process with the U.S. Fish and Wildlife Service (USFWS) shall be implemented. **DOCUMENTATION:** The applicant or its designee shall consult the respective resource agencies to determine if a permit or agreement is required. Upon completion of the agency review of this project, the applicant or its designee shall provide a copy of the permit(s)/agreement(s), or evidence from each agency that such an agreement or permit is not required to the [PDS, PPD] for compliance. **TIMING:** Prior to the approval of any plan, issuance of any permit, and prior to occupancy or use of the premises in reliance of this permit, a permit shall be obtained from the respective resource agencies or evidence provided that it is not required. **MONITORING:** The project applicant or its designee shall demonstrate, to the satisfaction of the Director of Planning and Development Services (or his/her designee), that it has secured any necessary take authorization from the respective resource agencies. The [PDS, PPD] shall review the permits/agreement for compliance with this condition. Copies of these permits should be transmitted to the [DPW, ESU], for implementation on the grading plans.

**GRADING PERMIT:** *(Prior to approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits).*

#### **BIO#4–BIOLOGICAL MONITORING (M-BI-1) [PDS, FEE X2]**

**INTENT:** In order to prevent inadvertent disturbance to areas outside the limits of grading, all grading shall be monitored by a biologist. **DESCRIPTION OF REQUIREMENT:** A County approved biologist shall be contracted to perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The following shall be completed:

- a. The Biologist shall perform the monitoring duties before, during and after construction pursuant to the most current version of the [County of San Diego Biological Report Format and Requirement Guidelines](#) and this permit. The contract provided to the county shall include an agreement that this will be completed, and [a Memorandum of Understanding \(MOU\)](#) between the biological consulting company and the County of San Diego shall be executed. The contract shall include a cost estimate for the monitoring work and reporting.
- b. The cost of the monitoring shall be added to the grading bonds or bonded separately with Planning & Development Services.

**DOCUMENTATION:** The applicant shall provide a copy of the biological monitoring contract, cost estimate, and [MOU](#) to the [PDS, PCC]. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate. **TIMING:** Prior to approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** The [PDS, PCC] shall review the contract, [MOU](#) and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to [PDS, LDR], for inclusion in the grading bond cost estimate, and grading bonds. The [PDS, LDR] shall add the cost of the monitoring to the grading bond costs.

#### **BIO#5–MINIMIZE AND AVOID IMPACTS TO SPECIAL-STATUS REPTILES (M-BI-6) [PDS, PCC]**

**INTENT:** In order to mitigate any potential inadvertent disturbance to special-status reptiles, a reptile survey, fencing, and removal strategy shall be implemented.

**DESCRIPTION OF REQUIREMENT:** A County approved biologist shall complete the following duties:

1. A smooth wildlife exclusion fence will be installed around the impact area prior to performance of pre-construction surveys. A wildlife exclusion fencing plan will be prepared and approved by the County prior to implementation. At a minimum, the plan will identify the materials, minimum height, installation process including trenched-in depth, intactness review timing and remediation process, and process/techniques for dealing with subsurface impediments (e.g., rocks and logs) or deep-water ponded areas.
2. Within 72 hours prior to initiation of construction activities, a qualified biologist will conduct a clearance survey within the fenced area for any special-status reptiles known to occur within the study area or with a high potential to occur such as San Diegan tiger whiptail, orange-throated whiptail, southern California legless lizard, red diamondback rattlesnake, San Diego ringneck snake, two-striped garter snake, and Blainville's horned lizard. If reptiles are found within the fenced area, they will be relocated outside of the impact area by a qualified biologist. The exclusion fencing plan will also identify the proposed relocation areas. Species should be uniformly distributed outside the fenced area and handled per the Declining Amphibians Task Force handling recommendations.
3. Within 72 hours prior to construction activities, a qualified biologist will survey for southwestern pond turtles within the limits of work. If southwestern pond turtles are detected, the biologist shall relocate the turtles to suitable habitat outside of the work area.

**DOCUMENTATION:** The project biologist shall prepare and submit to the satisfaction of the [PDS, PCC] a report that details the installation of the barrier fencing and the results of the surveys. Along with the narrative, the report shall have photographs of the fencing and any reptiles that are removed from the project site. **TIMING:** Prior to approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits, the condition shall be implemented. **MONITORING:** The [PDS, PCC] shall review the reptile removal strategy report and fencing plan implementation for compliance with this condition.

#### **BIO#6--MINIMIZE AND AVOID IMPACTS TO SOUTHERN CALIFORNIA STEELHEAD AND ARROYO CHUB (M-BI-8, M-BI-9) [PDS, PCC]**

**INTENT:** In order to mitigate any potential inadvertent disturbance to southern California steelhead and arroyo chub, terms and conditions for implementing Reasonable and Prudent Measures 1-5 will be observed in accordance with the NOAA Restoration Center (2015) Programmatic Consultation for Small Restoration Projects in Southern California (Sections 2.8.3 – 2.8.7). **DESCRIPTION OF REQUIREMENT:** The project biologist will ensure the terms and conditions for implementing Reasonable and Prudent Measures 1-5, as described below, are observed in accordance with the NOAA Restoration Center (2015) Programmatic Consultation for Small Restoration Projects in Southern California (Sections 2.8.3 – 2.8.7).

1. Implement a steelhead rescue and relocation protocol for dewatering activities that is protective of juvenile and adult steelhead. Prior to construction and following installation of barriers to isolate the construction site from the active channel, a qualified fisheries biologist and team will conduct a fish survey and rescue program for stranded fish prior to initiation of construction activities. Fish removed from the work area will be immediately returned to the active channel. A fish rescue and relocation plan will be provided to NMFS and CDFW for review and approval prior to initiating the fish rescue. All observed steelhead will be reported to CDFW and NMFS. If annual take number for juvenile and adult steelhead is reached, construction activity will stop until consultation with wildlife agencies resolves the take limit.
2. Report to NMFS all take (inclusive of steelhead-relocation activities).
3. Develop and implement a streamflow monitoring plan to minimize effects of Program activities that result in a reduction of instream flow. The dewatering resulting from in-channel activities is expected to cause temporary loss, alteration, and reduction of aquatic habitat and macroinvertebrate organisms. If there is any flowing water (or isolated pools capable of supporting steelhead) when the construction occurs, the project proponent is required to construct cofferdams upstream and downstream of the excavation site and divert all flowing water around the workspace. If the thalweg of the stream has been altered due to construction activities, efforts shall be undertaken to reestablish it to its original configuration.
4. Minimize input of sand and smaller particles to action area drainages as a result of creating, maintaining, and (or) using access ramps and temporary access roads.
5. Submit adequate project information for NMFS' review and agreement to ensure Program impacts are minimized within the area affected by the proposed action. During and after completion of all facilities, SDC-PDS will monitor steelhead migrations from January through May and report to wildlife agencies. Communication of steelhead and other sensitive aquatic species will occur frequently with NMFS.

**DOCUMENTATION:** The project biologist shall prepare and submit to the satisfaction of the [PDS, PCC] a report that details compliance with the terms of the condition. **TIMING:** Prior to approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits, the condition shall be implemented. **MONITORING:** The [PDS, PCC] shall review the report and for compliance with this condition.

#### **BIO#7–MINIMIZE AND AVOID IMPACTS TO SPECIAL-STATUS RODENTS (M-BI-11) [PDS, PCC]**

**INTENT:** In order to mitigate any potential inadvertent disturbance to special-status rodents, a rodent survey, fencing, and removal strategy shall be implemented. **DESCRIPTION OF REQUIREMENT:** A County approved biologist shall complete the following duties:

1. A smooth wildlife exclusion fence will be installed around the impact area prior to performance of pre-construction surveys. A wildlife exclusion fencing plan will be prepared and approved by the County prior to implementation. At a minimum, the



plan will identify the materials, minimum height, installation process including trenched-in depth, intactness review timing and remediation process, and process/techniques for dealing with subsurface impediments (e.g., rocks and logs) or deep-water ponded areas. The fence will be installed around the impact area to prevent special-status rodents from reentering the site during construction after removal from the work area.

2. Prior to the commencement of construction activities, a qualified biologist will conduct three nights of small mammal trapping within the fenced work area outside of inundated areas, intended to trap special-status small mammal species with potential to occur including Dulzura pocket mouse and northwestern San Diego pocket mouse. If small mammals are captured in the proposed construction area, they will be relocated to suitable habitat outside of the impact area by a qualified biologist. Prior to implementation, a relocation plan will be prepared and approved by the County that outlines how and where captured small mammals will be relocated.

**DOCUMENTATION:** The project biologist shall prepare and submit to the satisfaction of the [PDS, PCC] a report that details the installation of the barrier fencing and the results of the surveys. Along with the narrative, the report shall have photographs of the fencing and any rodents that are removed from the project site. **TIMING:** Prior to approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits, the condition shall be implemented. **MONITORING:** The [PDS, PCC] shall review the rodent removal strategy report and fencing plan implementation for compliance with this condition.

#### **BIO#8–WETLAND PERMITS (M-BI-15) [PDS, FEE X2]**

**INTENT:** In order to comply with the State and Federal Regulations for jurisdictional aquatic resources, the following agency permits, or verification that they are not required shall be obtained. **DESCRIPTION OF REQUIREMENT:** The following permit and agreement shall be obtained, or provide evidence from the respective resource agency satisfactory to the Director of PDS that such an agreement or permit is not required:

- a. A Clean Water Act, Section 401/404 permit issued by the California Regional Water Quality Control Board and the U.S. Army Corps of Engineers for all project related disturbances of waters of the U.S. and/or associated wetlands.
- b. A Section 1602 Streambed Alteration Agreement issued by the [California Department of Fish and Wildlife](#) for all project related disturbances of any streambed.

**DOCUMENTATION:** The applicant shall consult each agency to determine if a permit or agreement is required. Upon completion of the agency review of this project, the applicant shall provide a copy of the permit(s)/agreement(s), or evidence from each agency that such an agreement or permit is not required to the [PDS, PCC] for compliance. **TIMING:** Prior to approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** The [PDS, PCC] shall review the permits/agreement for compliance with this condition. Copies of these permits should be transmitted to the [DPW, ESU], for implementation on the grading plans.



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

**BIO#9–BIOLOGICAL MONITORING (M-BI-1) [PDS, FEE X2].**

**INTENT:** In order to ensure that the biological monitoring occurred during the grading phase of the project, a final Biological Monitoring Report shall be prepared.

**DESCRIPTION OF REQUIREMENT:** The “Project Biologist” shall prepare final biological monitoring report. The report shall substantiate the supervision of the grading activities, and state that grading or construction activities did not impact any additional areas of sensitive biological resources. The report shall conform to the County of San Diego Report Format Guidelines for Biological Resources, and include the following items:

- a. Photos of the temporary fencing that was installed during the trenching, grading, or clearing activities.
- b. Monitoring logs showing the date and time that the monitor was on site.
- c. Photos of the site after the grading and clearing activities.

**DOCUMENTATION:** The Biologist shall prepare the final report and submit it to the [PDS, PCC] for review and approval. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final report shall be approved.

**MONITORING:** The [PDS, PCC] shall review the final report for compliance this condition and the report format guidelines. Upon approval of the report, [PDS, PCC] shall inform [PDS, LDR] and [DPW, PDCI], that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then [PDS, PCC] shall inform [PDS, FISCAL] to release the bond back to the applicant.

**Draft Grading Plan Notes:**

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

**(BIOLOGICAL RESOURCES)**

**BIO#10–BIOLOGICAL MONITORING (M-BI-1) [PDS, FEE X3]**

**INTENT:** In order to prevent inadvertent disturbance to areas outside the limits of grading, all grading shall be monitored by a biological monitor. **DESCRIPTION OF**

**REQUIREMENT:** A County approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The Project Biologist shall also perform the following duties before construction to comply with the conditions of this Grading Plan:

1. Supervise and verify placement of temporary fencing of open space easements. The placement of such fencing shall be approved by the [PDS, PCC].
2. The Biologist shall attend the pre-construction meetings and other meetings to discuss construction requirements. Such meeting shall include the [PDS, PCC].

**DOCUMENTATION:** The Biological Monitor shall prepare written documentation that certifies that the temporary fencing has been installed and that all construction staff has

been trained on the site sensitive biological resources that are to be avoided. **TIMING:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** The [DPW, PDCI] shall invite the [PDS, PCC] to the preconstruction conference to coordinate the Biological Monitoring requirements of this condition. The [PDS, PCC] shall attend the preconstruction conference and verify the installation of the temporary fencing and approve the training documentation prepared by the biologist.

#### **BIO#11–TEMPORARY FENCING (M-BI-2) [PDS, FEE]**

**INTENT:** In order to prevent inadvertent disturbance to areas outside the limits of grading, temporary construction fencing shall be installed. **DESCRIPTION OF REQUIREMENT:** Prior to the commencement of any grading and/or clearing in association with this grading plan, temporary orange construction fencing shall be placed to protect from inadvertent disturbance of sensitive vegetation communities or other biological resources. The placement of such fencing shall be approved by the PDS, Permit Compliance Section. Upon approval, the fencing shall remain in place until the conclusion of grading activities after which the fencing shall be removed. **DOCUMENTATION:** The applicant shall provide evidence that the fencing has been installed and have a California licensed surveyor certify that the fencing is located on the boundary of the open space easement(s). The applicant shall submit photos of the fencing along with the certification letter to the [PDS, PCC] for approval. **TIMING:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances the fencing shall be installed, and shall remain for the duration of the grading and clearing. **MONITORING:** The [PDS, PCC] shall either attend the preconstruction conference and approve the installation of the temporary fencing, or review the certification and pictures provided by the applicant.

#### **BIO#12–NESTING BIRD RESOURCE AVOIDANCE (M-BI-4) [PDS, FEE X2]**

**INTENT:** In order to avoid impacts to migratory birds and raptors, which are sensitive biological resources pursuant to the Migratory Bird Treaty Act (MBTA), a Resource Avoidance Area (RAA), shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading such that none will be allowed within 300 feet of migratory bird nesting habitat and 500 feet of raptor nesting habitat during the breeding season of the migratory bird or raptor within RAA as indicated on these plans. The breeding season is defined as occurring between January 1 and September 15. The Director of PDS [PDS, PCC] may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Wildlife, provided that no migratory birds or raptors are present in the vicinity of the brushing, clearing, or grading as demonstrated by a survey completed no more than 72-hours prior to the start of clearing or grading. Impacts to active nests are typically avoided as follows: Clearing and construction shall be postponed or halted within the following buffers to be established by the biologist: (1) no work within 50 feet of a non-listed and non-raptor avifauna nest; (2) no work within 500 feet of a federally or state-listed species, such as least Bell's vireo; and (3) no work within 500 feet of a raptor nest. The construction avoidance area shall be clearly demarcated in the field with highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. To the extent possible, the no-construction buffer zones shall be avoided until the nesting cycle is complete. However, it may be reasonable for the County to reduce

these buffer widths depending on site conditions (e.g., the width and type of screening vegetation). If construction-related activities must take place within an active nest buffer area, the proposed project applicant or its designee shall present a plan the County with measures to monitor and minimize impacts to nesting birds. No ground-disturbance activities shall occur within the avoidance buffer zone until the qualified biologist has determined that the nest is no longer active and the young are not dependent on the nest. **DOCUMENTATION:** The applicant shall provide a letter of agreement with this condition; alternatively, the applicant may submit a written request for waiver of this condition. Although, no grading shall occur within the RAA until concurrence is received from the County and the Wildlife Agencies. **TIMING:** Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. **MONITORING:** The [DPW, PDCI] shall not allow any grading in the RAA during the specified dates, unless a concurrence from the [PDS, PCC] is received. The [PDS, PCC] shall review the concurrence letter.

#### **BIO#13–RIPARIAN BIRD RESOURCE AVOIDANCE (M-BI-5) [PDS, FEE X2]**

**INTENT:** In order to avoid impacts to riparian birds, which are sensitive biological resources pursuant to the Migratory Bird Treaty Act (MBTA), a Resource Avoidance Area (RAA), shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** Ground-disturbance activities shall be avoided during the riparian bird nesting season, from approximately March 15 through September 15. If ground-disturbing activities cannot be completed outside the riparian nesting bird season, the following measures shall be implemented:

- a. If construction activities begin between March 15 and September 15, two preconstruction surveys shall be conducted within riparian habitat found in and within 500 feet of the disturbance areas. One survey shall occur no earlier than 7 days prior to the commencement of activity, with the second occurring within 3 days of activity commencement. If ground-disturbance activities are delayed, then additional pre-disturbance surveys shall be conducted such that no more than 3 days will have elapsed between the last survey and ground-disturbance activities. The survey shall be completed by a biologist who holds a USFWS permit for southwestern willow flycatcher.
- b. If active nests of special-status birds such as least Bell's vireo, southwestern willow flycatcher, yellow-breasted chat, or yellow warbler are found, the qualified biologist would monitor and determine if construction noise levels or motion are potential sources for nest failure, and avoidance buffers would be established accordingly in coordination with the County, CDFW, and the USFWS. Additional follow-up weekly visits by the qualified biologist would be required if active nests occur within 500 feet of the project construction activities. No ground-disturbance activities shall occur within the avoidance buffer zone until the qualified biologist has determined that the nest is no longer active and the young are not dependent on the nest.
- c. Direct impacts to riparian habitat shall be minimized to the extent possible. Prior to initiation of ground-disturbance activities, disturbance limits shall be clearly defined

at the construction site and demarcated on site plans. Access and staging shall be limited to the existing pathways and constructed access roads.

**DOCUMENTATION:** The applicant shall provide a letter of agreement with this condition; alternatively, the applicant may submit a written request for waiver of this condition. Although, no grading shall occur within the RAA until concurrence is received from the County and the Wildlife Agencies. **TIMING:** Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. **MONITORING:** The [DPW, PDCI] shall not allow any grading in the RAA during the specified dates, unless a concurrence from the [PDS, PCC] is received. The [PDS, PCC] shall review the concurrence letter.

#### **BIO#14—MINIMIZE AND AVOID IMPACTS TO ARROYO TOADS (M-BI-7) [PDS, PCC]**

**INTENT:** In order to mitigate any potential inadvertent disturbance to arroyo toads, a preconstruction clearance survey shall be conducted. **DESCRIPTION OF REQUIREMENT:** A County-approved biologist shall perform a pre-construction clearance survey within 72 hours of the start of any grading, clearing, and/or grubbing. If arroyo toads are detected during pre-construction clearance surveys the project biologist shall consult with CDFW and USFWS to move the tadpoles, toadlets or toads to the nearest suitable habitat. All project activities will cease until the arroyo toads can be collected and relocated to another location outside of the project limits, and barrier fencing installed as necessary to preclude re-entry into the construction area. A USFWS-approved biologist (covered under Section 7 consultation for this project) shall perform the collection and relocation in coordination with the USFWS. Bullfrogs observed during pre-activity surveys that prey upon or displace arroyo toads shall be removed from the suitable habitat area and humanely euthanized in accordance with the American Veterinary Medical Association (AVMA) Guidelines for the Euthanasia of Animals: 2020 Edition (AVMA 2020). **DOCUMENTATION:** The Biological Monitor shall prepare written documentation that certifies that the survey has been completed and that arroyo toads have been avoided. **TIMING:** Prior to any clearing, grubbing, grading, or any land disturbances, this condition shall be completed and approved. **MONITORING:** The [DPW, PDCI] shall not allow any grading, unless a concurrence from the [PDS, PPD] is received. The [PDS, PPD] shall review the concurrence letter.

#### **BIO#15—PRE-CONSTRUCTION BAT SURVEY (M-BI-10) [PDS, FEE X3]**

**INTENT:** In order to prevent inadvertent disturbance to special status bats, a pre-construction bat survey shall be conducted within the project area prior to brushing, clearing, or grading. **DESCRIPTION OF REQUIREMENT:** A County-approved biologist shall perform a pre-construction bat survey in suitable roosting habitat within 72 hours of the start of any grading, clearing, and/or grubbing. If an active maternity roost is detected in vegetation or a structure which is to be impacted, project activities will be required to avoid disturbing the roost during the maternity roosting season of March through August. If roosts are observed outside of the maternity roosting season and exclusion is feasible, exclusion of roosts may be conducted with approval of the County of San Diego. Methods for roost exclusion would be discussed and agreed upon prior to implementation. Roost exclusion shall only occur during the time when bats are most active (early spring or fall)

to increase the potential to exclude all bats (i.e., from a structure) and minimize the potential for a significant impact to occur by avoiding the maternity roosting season. Removal of special-status bats will require consultation with the CDFW. **DOCUMENTATION:** The Biological Monitor shall prepare written documentation that certifies that the bat survey has been completed and that bats have been avoided. **TIMING:** Prior to any clearing, grubbing, grading, or any land disturbances, this condition shall be completed and approved. **MONITORING:** The [DPW, PDC] shall not allow any grading, unless a concurrence from the [PDS, PPD] is received. The [PDS, PPD] shall review the concurrence letter.

***DURING CONTRUCTION:*** *(The following actions shall occur throughout the duration of the grading construction).*

### **(BIOLOGICAL RESOURCES)**

#### **BIO#16–BIOLOGICAL MONITORING (M-BI-1) [PDS, FEE X3]**

**INTENT:** In order to prevent inadvertent disturbance to areas outside the limits of grading, all grading shall be monitored by a biological monitor. **DESCRIPTION OF REQUIREMENT:** A County approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The Project Biologist shall supervise and monitor grading activities to ensure against damage to biological resources that are intended to be protected and preserved. The monitor(s) shall be on site during all grading and clearing activities that are in or adjacent to any sensitive vegetation communities or other sensitive biological resources. If there are disturbances, the monitor must report them immediately to the [PDS PCC]. Additionally, the biologist shall perform the following duties:

1. Perform weekly inspection of fencing and erosion control measures (daily during rain events) near proposed preservation areas and report deficiencies immediately to the DPW Construction Inspector.
2. Perform periodically monitor the work area for excessive dust generation in compliance with the County grading ordinance and report deficiencies immediately to the DPW Construction Inspector.
3. Conduct a worker awareness training with the contractor and construction personnel describing the importance of restricting work to designated areas prior to clearing, grubbing, grading, or ground disturbance. Discuss procedures for minimizing harm to or harassment of wildlife. The biologist shall also provide the construction contractor field supervisor with a worker education pamphlet to be provided to all construction personnel prior to personnel initiating ground-disturbance activities. The pamphlet will include a discussion of the importance of the stream and associated riparian habitat, limits of work, a discussion of special-status species occurring and with the potential to occur, and education on not harassing native wildlife.
4. Monitor construction lighting periodically to ensure lighting is the lowest illumination possible allowed for safety, selectively placed, shielded, and directed away from preserved habitat.

5. Monitor equipment maintenance, staging, and fuel dispensing areas to ensure there is no runoff to Waters of the US.
6. Stop or divert all work when deficiencies require mediation and notify DPW Construction Inspector and [PDS PCC] within 24 hours; (8) produce periodic (monthly during grading) and final reports and submit to the Wildlife Agencies and the PDS (final report will release bond).
7. Confer with the Wildlife Agencies and [PDS PCC] within 24 hours any time protected habitat or gnatcatchers are being affected by construction.
8. Attend construction meetings and other meetings as necessary.
9. Attend the preconstruction meeting with the contractor and other key construction personnel prior to ground disturbance, clearing, grubbing, or grading to reduce conflict between the timing and location of construction activities with other mitigation requirements (e.g., seasonal surveys for nesting birds).
10. Conduct a preconstruction survey sweep immediately prior to the start of daily work activities and monitor ground-disturbing activities within areas of suitable habitat for special-status species. The biological monitor shall look for special-status species that may be located within or immediately adjacent to the work area. If special-status species are detected, the biological monitor shall identify and, when applicable, flag the location for avoidance. If avoidance of wildlife is not possible, a qualified biologist shall flush or move them out of harm's way to avoid direct impacts to these species. Any special-status plant individuals will be flagged for avoidance and shall not be directly impacted without Agency consultation.
11. Verify that the construction site is implementing best management practices (BMPs).
12. Supervise and monitor vegetation clearing, grubbing, grading, and ground-disturbing activities to ensure against direct and indirect impacts to biological resources that are intended to be protected and preserved.
13. Oversee the construction site so that cover and/or escape routes for wildlife from excavated areas are provided on a daily basis, and ensure pipes are covered or capped. See **BIO#17** for details on avoiding wildlife entrapment. Exposed trenches, holes, and excavations shall be inspected twice daily (i.e., each morning and prior to sealing the exposed area) by a qualified biologist to monitor for wildlife entrapment.
14. Be present during work activities that are expected to generate excessive noise, in order to monitor for biological concerns and ensure that work activities are conducted in such a way that potentially disruptive noise is minimized to the extent possible.

**DOCUMENTATION:** The Project Biologist shall prepare and submit to the satisfaction the [PDS, PCC] monitoring reports, which indicate that the monitoring has occurred as indicated above. **TIMING:** The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDC] shall assure that the Project Biologist is on-site performing the Monitoring duties of this condition during all applicable grading activities as determined by the Biologist. The [DPW, PDC] shall contact the

[PDS, PCC] if the Project Biologist or applicant fails to comply with this condition. The [PDS, PCC] shall review and approve the monitoring reports for compliance with this condition.

### **BIO#17–BEST MANAGEMENT PRACTICES (M-BI-13)**

**INTENT:** To order to avoid impacts to special-status species, sensitive vegetation communities, and/or jurisdictional waters during construction, measures and/or restrictions shall be incorporated and noted on construction plans. **DESCRIPTION OF REQUIREMENT:** The Best Management Practices (BMPs) shall be developed, approved, and implemented during construction to control stormwater runoff such that erosion, sedimentation, pollution, runoff, and other adverse effects are minimized. The BMPs shall remain in place during construction and kept operating as long as needed. The Project Biologist shall verify the implementation of the following design requirements:

1. Avoid toxic substances on road surfaces. Soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants.
2. Avoid wildlife entrapment: a) At the end of each workday, backfill, cover, or slope all potential wildlife pitfalls (trenches, bores, and other excavations) to allow wildlife egress. Should wildlife become trapped, a qualified biologist shall remove and relocate it. b). All pipes or other construction materials or supplies will be covered or capped in storage or laydown areas at the end of each workday. No pipes or tubing of sizes or inside diameters ranging from 1 to 10 inches will be left open either temporarily or permanently.
3. Fully covered trash receptacles that are animal-proof and weather-proof will be installed and used by the operator to contain all food, food scraps, food wrappers, beverage containers, and other miscellaneous trash. Prohibit littering and remove trash from construction areas daily. All food-related trash and garbage shall be removed from the construction sites on a daily basis.
4. Workers shall not bring pets on or adjacent to construction sites and shall not feed wildlife.
5. Construction activity will not be permitted in jurisdictional waters, except as authorized by applicable law and permit(s), including permits and authorizations approved by the U.S. Army Corps of Engineers or California Department of Fish and Wildlife RGP78, and Regional Water Quality Control Board.
6. Temporary storage of construction equipment and materials will not be located in jurisdictional waters.
7. Any equipment or vehicles driven and/or operated adjacent to a jurisdictional water will be checked and maintained by the operator daily to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials that could be deleterious to aquatic life if introduced to the watercourse. Hazardous spills shall be immediately cleaned up, and the contaminated soil shall be properly handled or disposed of at a licensed facility.
8. No stationary equipment, such as motors, pumps, generators, and welders, or fuel storage tanks will be located within or adjacent to jurisdictional waters.



9. No debris, bark, slash sawdust, rubbish, cement, or concrete, or washing thereof, oil, or petroleum products will be stored where it may be washed by rainfall or runoff into jurisdictional waters.
10. When construction operations are completed, any excess materials or debris will be removed from the work area.
11. No equipment maintenance will be performed within or near jurisdictional waters, where petroleum products or other pollutants from the equipment may enter these areas. Servicing of construction equipment shall take place only at a designated staging area.
12. The spread of dust shall be minimized through periodic watering of actively disturbed soils or previously disturbed soils.
13. The spread of invasive weeds shall be minimized through removal of non-native weed species and remedial measures as determined during routine monitoring.
14. Construction equipment shall be cleaned of mud or other debris that may contain invasive plants/seed and inspected to reduce the potential of spreading noxious weeds before mobilizing to the work area and before leaving the work area. Cleaning of equipment shall occur outside the work area where the wastewater stream is contained so as to prevent any invasive plant material from entering natural areas.
15. During construction, the project shall use silt fences, fiber rolls, gravel bags, and soil stabilization measures such as erosion control mats as necessary and applicable to control and prevent erosion.

**DOCUMENTATION:** The Project Biologist shall prepare and submit to the satisfaction the [PDS, PCC] monitoring reports, which indicate that the monitoring has occurred as indicated above. **TIMING:** The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDCI] shall assure that the Project Biologist is on-site performing the Monitoring duties of this condition during all applicable grading activities as determined by the Biologist. The [DPW, PDCI] shall contact the [PDS, PCC] if the Project Biologist or applicant fails to comply with this condition. The [PDS, PCC] shall review and approve the monitoring reports for compliance with this condition.

#### **BIO#18—CHANNEL PROTECTION MEASURES (M-BI-14)**

**INTENT:** In order to avoid impacts within and adjacent to the Santa Margarita River, measures shall be incorporated and noted on construction plans. **DESCRIPTION OF REQUIREMENT:** The BMPs shall be implemented and remain in place during construction and kept operating as long as needed. The Project Biologist shall verify the implementation of the following design requirements:

1. In-channel construction areas shall be isolated from the active creek channel with sandbags, fiber mats, cofferdams, or other methods described in regulatory permits during construction.
2. Channel shall be accessed for construction activities preferentially via areas where no riparian vegetation is affected.

3. Potential downstream runoff from the site shall be controlled with sandbags, fiber mats, or other methods.
4. Construction equipment shall be refueled and maintained outside of the channel. If this is not feasible, containment materials will be used.
5. Washout areas stationed outside of the channel shall be used for concrete containment. These areas shall be isolated to ensure that concrete materials do not runoff into the channel or to recharge ponds.
6. When working in the channel or where there may be runoff to the channel, construction equipment shall be fitted with absorbent materials at potential fuel, oil, and other fluid leak spots.
7. During construction and post-construction maintenance involving use of equipment in or adjacent to the channel, sandbags shall be stockpiled on site so that they may be immediately filled and placed around any spill. Any spills not contained within the maintenance area will immediately be contained and isolated from the active channel.
8. A qualified biologist shall be present to check for wildlife that have taken shelter under/between/within erosion control materials (i.e., sandbags or other materials) immediately prior to and during removal of any such materials. If wildlife are found during this process, they will be relocated to outside of the impact area by the qualified biologist.

**DOCUMENTATION:** The Project Biologist shall prepare and submit to the satisfaction the [PDS, PCC] monitoring reports, which indicate that the monitoring has occurred as indicated above. **TIMING:** The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDC] shall assure that the Project Biologist is on-site performing the Monitoring duties of this condition during all applicable grading activities as determined by the Biologist. The [DPW, PDC] shall contact the [PDS, PCC] if the Project Biologist or applicant fails to comply with this condition. The [PDS, PCC] shall review and approve the monitoring reports for compliance with this condition.

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

## **(BIOLOGICAL RESOURCES)**

### **BIO#19–BIOLOGICAL MONITORING (M-BI-1) [PDS, FEE]**

**INTENT:** In order to comply with the adopted Program (MMRP) pursuant to PDS2020-LDGRMJ-30309, and the [County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Biological Resources](#), a Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Biologist shall prepare and submit a final letter report substantiating his/her supervision of the grading activities and substantiating that grading did not impact additional areas of sensitive vegetation communities or other sensitive biological resources. The report shall conform to the [County of San Diego Report Format Guidelines for Biological Resources](#). It shall also include but not be limited to the following items:

- a. Photos of the temporary fencing that was installed during the trenching, grading, or clearing activities.
- b. Monitoring logs showing the date and time that the monitor was on site.
- c. Photos of the site after the grading and clearing activities.

**DOCUMENTATION:** The applicant shall submit the final biological monitoring report to the [PDS, PCC] for review and approval. **TIMING:** Upon completion of all grading activities, and prior to Rough Grading final Inspection ([Grading Ordinance SEC 87.421.a.2](#)), the final report shall be completed. **MONITORING:** The [PDS, PCC] shall review the final report for compliance with the project MMRP, and inform [DPW, PDCI] that the requirement is completed.

### Cultural Resources

**PRE-CONSTRUCTION GRADING AND/OR IMPROVEMENTS:** *(Prior to any clearing, grubbing, trenching, grading, or any land disturbances.)*

#### **CULT#GR-1 - ARCHAEOLOGICAL MONITORING**

**INTENT:** In order to mitigate for potential impacts to undiscovered buried archaeological resources on the project site, a grading monitoring program and potential data recovery program shall be implemented pursuant to the County of San Diego Guidelines for Determining Significance for Cultural Resources and California Environmental Quality Act (CEQA) Sections 15064.5 and 15064.7. **DESCRIPTION OF REQUIREMENT:** A County Approved Principal Investigator (PI) known as the "Project Archaeologist," shall be contracted to perform cultural resource grading monitoring and a potential data recovery program during all grading, clearing, grubbing, trenching, and construction activities (including for the temporary trail). The following shall be completed:

- a. The Project Archaeologist shall perform the monitoring duties before, during and after construction pursuant to the most current version of the County of San Diego Guidelines for Determining Significance and Report Format and Requirements for Cultural Resources. The Project Archaeologist and Kumeyaay and/or Luiseño Native American monitor shall also evaluate fill soils to determine that they are clean of cultural resources. The contract or letter of acceptance provided to the County shall include an agreement that the archaeological monitoring will be completed, and a Memorandum of Understanding (MOU) between the Project Archaeologist and the County of San Diego shall be executed. The contract or letter of acceptance shall include a cost estimate for the monitoring work and reporting.
- b. The Project Archeologist shall provide evidence that a Kumeyaay and Luiseño Native American has been contracted by the property owner or their representative to perform Native American Monitoring for the project. Tribal monitoring shall be conducted on a rotation basis as outlined in the Treatment Agreement and Preservation Plan.
- c. The cost of the monitoring shall be added to the grading bonds or bonded separately.

**DOCUMENTATION:** The applicant shall provide a copy of the Archaeological Monitoring Contract or letter of acceptance, copy of the Tribal monitoring contract, cost estimate, and MOU to [PDS, PPD]. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate. **TIMING:** Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** [PDS, PPD] shall review the contracts or letter of acceptance, MOU and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to [PDS, PPD] for inclusion in the grading bond cost estimate, and grading bonds and the grading monitoring requirement shall be made a condition of the issuance of the grading or construction permit.

### **CULT#GR-2 - CULTURAL RESOURCES TREATMENT AGREEMENT AND PRESERVATION PLAN**

**INTENT:** In order to mitigate for impacts to Traditional Cultural Properties, develop and enter into a Cultural Resources Treatment Agreement and Preservation Plan with culturally-affiliated Tribes. **DESCRIPTION OF REQUIREMENT:** A single Cultural Resources Treatment Agreement and Preservation Plan shall be developed between the applicant or their representative, the County of San Diego, and culturally-affiliated Tribes. The Cultural Resources Treatment Agreement and Preservation Plan shall be reviewed and agreed to by the County prior to final signature and authorization. The Cultural Resources Treatment Agreement and Preservation Plan shall include but is not limited to the following:

- a. Parties entering into the agreement and contact information.
- b. Responsibilities of the Property Owner or their representative, Principal Investigator, archaeological monitors, Kumeyaay and Luiseño Native American monitors, and consulting tribes.
- c. Requirements of the Archaeological Monitoring Program including unanticipated discoveries. The requirements shall address grading and grubbing requirements including controlled grading and controlled vegetation removal in areas of cultural sensitivity, and analysis of identified cultural materials. In addition, rotation of tribal monitors shall be addressed. The Treatment Agreement and Preservation Plan shall establish a rotation schedule for Tribal monitors.
- d. Excavated soils. Soils are to stay onsite. Consultation with the culturally-affiliated tribes shall occur should excavated soils need to be exported offsite.
- e. Treatment of identified Native American cultural materials. Any identified Native American cultural materials with the exception of Native American human remains and associated grave goods (described in item g below) are to be reburied onsite. The Treatment Agreement and Preservation Plan shall identify a suitable location for reburial of cultural materials should they be encountered and recovered during construction monitoring. Should the reburial area be required, the location shall be recorded on Department of Parks and Recreation (DPR) forms, and an open space easement shall be dedicated for the protection of the resources in perpetuity. If the proposed reburial location is not required, then neither recordation on DPR forms, nor dedication of an open space easement over the proposed location is required.

- f. Deed restriction. Details of the requirement for a deed restriction for reburial of identified Native American cultural materials. The requirements shall address protection of Native American cultural materials, access, and responsibilities for management and maintenance of the open space.
- g. Treatment of Native American human remains and associated grave goods. Consultation with the Most Likely Descendant (MLD) pursuant to Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered. The Treatment Agreement and Preservation Plan shall identify a suitable location for reburial of human remains, sacred items, and funerary items, should they be encountered and recovered during construction monitoring. Should the reburial area be required, the location shall be recorded on Department of Parks and Recreation (DPR) forms, and an open space easement shall be dedicated for the protection of the resources in perpetuity. If the proposed reburial location is not required, then neither recordation on DPR forms, nor dedication of an open space easement over the proposed location is required.
- h. Confidentiality of cultural information including location and data.
- i. Revegetation Plan. Revegetation Plan review by culturally-affiliated tribes. A revegetation plan for the project shall take into consideration the unique relationship Native American Tribes have with the natural environment. Consulting tribes may request that certain native species be used over others in accordance with their tribal values.
- j. Interpretive signage. The applicant shall work with the tribes to establish interpretive signage along final trail alignments associated with the project. The signage shall include culturally appropriate information on why the area is important to the tribes, and assist the public to understand the project area within its regional context.
- k. Negotiation of disagreements should they arise during the implementation of the Treatment Agreement and Preservation Plan.
- l. Regulations that apply to cultural resources that have been identified or may be identified during project construction.

**DOCUMENTATION:** A copy of the implemented agreement shall be submitted to the [PDS, PPD] for approval. **TIMING:** Prior to any clearing, grubbing, trenching, grading, or any land disturbances. **MONITORING:** The [PDS, PPD] shall review the implemented agreement for compliance this condition.

### **CULT#GR-3 - ARCHAEOLOGICAL MONITORING – PRECONSTRUCTION MEETING**

**INTENT:** In order to comply with the County of San Diego Guidelines for Significance – Cultural Resources, an Archaeological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The County approved Project Archaeologist, and Kumeyaay and Luiseño Native American Monitor shall attend the pre-construction meeting with the contractors to explain and coordinate the requirements of the archaeological monitoring program. The Project

Archaeologist and, Kumeyaay and/or Luiseño Native American Monitor shall monitor the original cutting of previously undisturbed deposits in all areas identified for development including off-site improvements. The Project Archaeologist, and Kumeyaay and/or Luiseño Native American monitor shall also evaluate fill soils to determine that they are clean of cultural resources. The archaeological monitoring program shall comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources and as outlined in the Treatment Agreement and Preservation Plan. **DOCUMENTATION:** The applicant shall have the contracted Project Archeologist and Kumeyaay and Luiseño Native American attend the preconstruction meeting to explain the monitoring requirements. **TIMING:** Prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** The [DPW, PDCI] shall confirm the attendance of the approved Project Archaeologist.

***DURING CONTRUCTION:*** (The following actions shall occur throughout the duration of the grading construction).

#### **CULT#GR-4 - ARCHAEOLOGICAL MONITORING – DURING CONSTRUCTION**

**INTENT:** In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, a Cultural Resource Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist, and Kumeyaay and/or Luiseño Native American Monitor shall monitor the original cutting of previously undisturbed deposits in all areas identified for development including off-site improvements. The archaeological monitoring program shall comply with the following requirements during earth-disturbing activities (including construction of the temporary trail):

- a. **Monitoring.** During the original cutting of previously undisturbed deposits, the Project Archaeologist, and Kumeyaay and/or Luiseño Native American Monitor shall be onsite as determined necessary by the Project Archaeologist. Inspections will vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features. The frequency and location of inspections will be determined by the Project Archaeologist in consultation with the Kumeyaay and/or Luiseño Native American Monitor. Monitoring of the cutting of previously disturbed deposits will be determined by the Project Archaeologist in consultation with the Kumeyaay and/or Luiseño Native American Monitor.
- b. **Inadvertent Discoveries.** In the event that previously unidentified potentially significant cultural resources are discovered:
  1. The Project Archaeologist or the Kumeyaay and/or Luiseño Native American monitor, shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources.
  2. At the time of discovery, the Project Archaeologist shall contact the PDS Staff Archaeologist and culturally-affiliated tribes as identified in the Treatment Agreement and Preservation Plan.

3. All ground disturbance activities within 100 feet of the discovered cultural resources shall be halted until a meeting is convened between the developer, the project archaeologist, tribal monitor(s), and the tribal representative(s) to discuss the significance of the find. Optionally, the County Archaeologist may attend the meeting to discuss the significance of the find.
4. All ground disturbance activities within 100 feet of the discovered cultural resources shall be halted until a meeting is convened between the developer, the project archaeologist, tribal monitor(s), and the tribal representative(s) to discuss the significance of the find. Optionally, the County Archaeologist may attend the meeting to discuss the significance of the find.
5. Construction activities shall not resume in the area of discovery until an agreement has been reached by all parties as to appropriate mitigation. Work shall be allowed to continue outside of the buffer area and shall be monitored.
6. Isolates and clearly non-significant deposits shall be minimally documented in the field. The isolates and/or non-significant deposits shall be reburied onsite as identified in the Treatment Agreement and Preservation Plan.
7. Treatment and avoidance of the newly discovered resources shall be consistent with the Treatment Agreement and Preservation Plan entered into with the appropriate tribes. This may include avoidance of the cultural resources through project design, in-place preservation of cultural resources located in native soils and/or re-burial on the Project property so they are not subject to further disturbance in perpetuity.
8. If cultural resources are identified, one or more of the following treatments, in order of preference, shall be employed:
  - a. Preservation in place of the Cultural Resources, if feasible. Preservation in place means avoiding the resources, leaving them in place where they were found with no development affecting the integrity of the resources.
  - b. Reburial of the resources on the project property. The measures for reburial shall include, at least, the following:
    - Measures and provisions to protect the future reburial area from any impacts in perpetuity.
    - Reburial shall not occur until all legally required cataloging and basic recordation have been completed, with the exception that sacred items, burial goods, and Native American human remains are excluded.
    - Any reburial process shall be culturally appropriate.
    - Listing of contents and location of the reburial shall be included in the confidential appendix of the Monitoring Report.
    - The Monitoring Report shall be filed with the County under a confidential cover and is not subject to Public Records requests.



- c. If preservation in place or reburial is not feasible, a Research Design and Data Recovery Program (Program) shall be prepared by the Project Archaeologist in consultation with the Tribe, and the Kumeyaay and Luiseño Native American Monitor and approved by the County Archaeologist prior to implementation. There shall be no destructive or invasive testing on sacred items, burial goods, and Native American human remains. Results concerning finds of any inadvertent discoveries shall be included in the Monitoring Report.

Pursuant to Calif. Pub. Res. Code § 21083.2(b) avoidance is the preferred method of preservation for archaeological resources and cultural resources. If the landowner and the Tribe(s) cannot agree on the significance or the mitigation for the archaeological or cultural resources, these issues will be presented to the Planning & Development Services Director for decision. The Planning & Development Services Director shall make the determination based on the provisions of the California Environmental Quality Act with respect to archaeological resources, recommendations of the project archeologist and shall take into account the cultural and religious principles and practices of the Tribe.

- c. **Human Remains.** If any human remains are discovered:

1. The Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist.
2. Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin. If the human remains are to be taken offsite for evaluation, they shall be accompanied by the Kumeyaay and/or Luiseño Native American monitor.
3. If the remains are determined to be of Native American origin, the NAHC shall immediately contact the Most Likely Descendant (MLD).
4. The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted.
5. The MLD may with the permission of the landowner, or their authorized representative, inspect the site of the discovery of the Native American human remains and may recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendants shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.
6. Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered.

- d. **Tribal Cultural Resources.** If tribal cultural resources are discovered, the Project Archaeologist shall conduct consultation with culturally-affiliated tribes to determine the most appropriate mitigation. Should the two parties not be able to reach consensus, then the County Archaeologist shall consider the concerns of the culturally-affiliated tribe and the Project Archaeologist, and the Director of Planning & Development Services shall make a final decision regarding appropriate mitigation.
- e. **Fill Soils.** The Project Archaeologist, and Kumeyaay and/or Luiseño Native American monitor shall evaluate fill soils to determine that they are clean of cultural resources.
- f. **Monthly Reporting.** The Project Archaeologist shall submit monthly status reports to the Director of Planning and Development Services starting from the date of the Notice to Proceed to termination of implementation of the archaeological monitoring program. The report shall briefly summarize all activities during the period and the status of progress on overall plan implementation. Upon completion of the implementation phase, a final report shall be submitted describing the plan compliance procedures and site conditions before and after construction.

**DOCUMENTATION:** The applicant shall implement the Archaeological Monitoring Program pursuant to this condition. **TIMING:** The following actions shall occur throughout the duration of the earth disturbing activities. **MONITORING:** The [DPW, PDCI] shall make sure that the Project Archeologist is on-site performing the monitoring duties of this condition. The [DPW, PDCI] shall contact the [PDS, PPD] if the Project Archeologist or applicant fails to comply with this condition.

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

#### **CULT#GR-5 - ARCHAEOLOGICAL MONITORING – ROUGH GRADING [PDS, FEE]**

**INTENT:** In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, an Archaeological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist shall prepare one of the following reports upon completion of the earth-disturbing activities that require monitoring:

- a. **No Archaeological Resources Encountered.** If no archaeological resources are encountered during earth-disturbing activities, then submit a final Negative Monitoring Report substantiating that earth-disturbing activities are completed and no cultural resources were encountered. Archaeological monitoring logs showing the date and time that the monitor was on site and any comments from the Kumeyaay and/or Luiseño Native American Monitor must be included in the Negative Monitoring Report.
- b. **Archaeological Resources Encountered.** If archaeological resources were encountered during the earth disturbing activities, the Project Archaeologist shall provide an Archaeological Monitoring Report stating that the field monitoring activities have been completed, and that resources have been encountered. The report shall detail all cultural

artifacts and deposits discovered during monitoring and the anticipated time schedule for completion of the reburial and/or repatriation phase of the monitoring.

**DOCUMENTATION:** The applicant shall submit the Archaeological Monitoring Report to [PDS, PPD] for review and approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center and any culturally-affiliated Tribe who requests a copy. **TIMING:** Upon completion of all earth-disturbing activities, and prior to Rough Grading Final Inspection (Grading Ordinance SEC 87.421.a.2), the report shall be completed. **MONITORING:** [PDS, PPD] shall review the report or field monitoring memo for compliance with the project MMRP, and inform [DPW, PDCI] that the requirement is completed.

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

**CULT#GR-6 - ARCHAEOLOGICAL MONITORING – FINAL GRADING [PDS, FEE]**

**INTENT:** In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, an Archaeological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist shall prepare a final report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program if cultural resources were encountered during earth-disturbing activities (including for the temporary trail). The report shall include the following, if applicable:

- a. Department of Parks and Recreation Primary and Archaeological Site forms.
  - b. Daily Monitoring Logs
  - c. Evidence that all Native American cultural materials in order of preference have been conveyed as follows:
    - (1) Evidence that all prehistoric materials collected during the archaeological monitoring program have been reburied.
- or
- (2) Evidence that all prehistoric materials collected during the grading monitoring program have been repatriated to a Native American group of appropriate tribal affinity. Evidence shall be in the form of a letter from the Native American tribe to whom the cultural resources have been repatriated identifying that the archaeological materials have been received.
- d. Evidence that all historic cultural materials have been conveyed as follows:

Historic materials shall be curated at a San Diego curation facility and shall not be curated at a Tribal curation facility or repatriated. The collections and associated records, including title, shall be transferred to the San Diego curation facility and shall be

accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the historic materials have been received and that all fees have been paid.

- e. If no cultural resources are discovered, a Negative Monitoring Report must be submitted stating that the archaeological monitoring activities have been completed. Grading Monitoring Logs must be submitted with the negative monitoring report.

**DOCUMENTATION:** The applicant's archaeologist shall prepare the final report and submit it to *[PDS, PPD]* for approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center (SCIC) and any culturally-affiliated Tribe who requests a copy. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final report shall be prepared. **MONITORING:** *[PDS, PPD]* shall review the final report for compliance with this condition and the report format guidelines. Upon acceptance of the report, *[PDS, PPD]* shall inform *[PDS, LDR]* and *[DPW, PDCI]*, that the requirement is complete, and the bond amount can be relinquished. If the monitoring was bonded separately, then *[PDS, PPD]* shall inform *[PDS or DPW FISCAL]* to release the bond back to the applicant.

### Tribal Cultural Resources

**TCR-1** During preparation of the project's revegetation plan, the County shall request input from the actively consulting Tribes. The County will take under consideration tribal comments on the revegetation plan and work to ensure plants of particular importance to the tribe are included in the plan.

### 3. Required Project Design Features:

Refer to the attached Initial Study – Environmental Checklist Form for the rationale for requiring the following design feature:

### Recreation

Temporary Trail - A temporary trail will be constructed in the location shown on Sheet C4 of the Construction Plans. The trail will be approximately eight feet in width and 600 feet long on the east side of Sandia Creek Drive and south of the river. Trail construction shall be to the design shown on Sheet C13 of the Construction Plans. Construction of the trail will utilize hand tools including shovel, rake, Mattock, Pulaski and limited chain saw for brush trimming. The trail will be constructed following approval of the grading plan, and ahead of the start of bridge construction. The new temporary trail will also have a safety crossing at the southwest end of the trail on Sandia Creek Drive. Potential trail erosion will be controlled through appropriate trail slope and construction of water bars and ground disturbing activities during construction will be monitored for cultural and tribal cultural resources.

**ADOPTION STATEMENT:** This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the Director of Planning & Development Services:

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on \_\_\_\_\_

Mark Slovick, Deputy Director  
Planning & Development Services