

RESOLUTION 2016-95

**RESOLUTION ADOPTING THE FINAL
MITIGATED NEGATIVE DECLARATION,
ADOPTING THE MITIGATION MONITORING AND
REPORTING PROGRAM, AND DIRECTING
FILING OF THE NOTICE OF DETERMINATION**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, the City of Coronado (City), as the project proponent, proposes storm drain improvements running the length of I Avenue from Fourth Street to San Diego Bay in Coronado (Project); and

WHEREAS, the City will own, operate and maintain the storm drain, outfall and associated improvements and the purpose of the Project is to mitigate flooding near the intersection of Fourth Street and Alameda Boulevard that occurs during storm events; and

WHEREAS, the Project includes both landside and waterside components, with the majority of the landside components being located within the City's jurisdiction and a small portion of the landside and all waterside components being located within the District's jurisdiction; and

WHEREAS, as more particularly described in the corresponding Agenda Sheet, the Project proposes (a) a new 48-inch storm drain running the length of I Avenue from Fourth Street in the City to San Diego Bay; (b) new curb inlets on the north and south side of Fourth Street on the east side of its intersection with I Avenue; (c) interception of the new storm drain with an existing 24-inch storm drain, which conveys flows from First Street, just southwest of the existing 24-inch storm drain outfall; (d) a low-flow diverter to divert low-flows to the sanitary sewer system instead of to the outfall; (e) upsizing an existing outfall from 24 to 48 inches; (f) an anchor collar and an at-grade grouted rip-rap bedding at the upsized outlet; (g) an energy dissipater (non-grouted rip-rap), designed in accordance with the San Diego Regional Standards; and (h) an additional 134 square feet of rip-rap being placed onto intertidal flats; and

WHEREAS, the District is the trustee of said tidelands where portions of the Project will be constructed; and

WHEREAS, the components of the Project located within the District's jurisdiction include an approximately 25-foot-long section of the new storm drain, an upsized 48-inch storm drain outfall, anchor collar, an 8-foot-long grouted rip-

rap bedding, a 16-foot-long rock energy dissipater, and a 268-square-foot proposed rock rubble mitigation area; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the City, as the CEQA Lead Agency, prepared an Mitigated Negative Declaration (MND), including an Initial Study entitled *Third, Fourth, and I Avenue Storm Drain Rehabilitation Project* (State Clearinghouse No. 2015101070); and

WHEREAS, on July 21, 2015, the Coronado City Council (City Council) conducted a public hearing to consider the IS for the Project, and directed City staff to proceed with an MND and to circulate the IS/MND for a 30-day public and responsible agency review and comment, prior to the City Council's consideration of adoption of the IS/MND; and

WHEREAS, the IS/MND documented, described, disclosed, and analyzed the environmental impacts of the Project and on February 2, 2016, the City Council of the City approved the MND and Mitigation Monitoring and Reporting Program (MMRP) for the Project; and

WHEREAS, pursuant to Public Resources Code Section 21069 and Section 15381 of the State CEQA Guidelines; 14 California Code of Regulations Section 15000, et seq. (CEQA Guidelines), the District is a responsible agency under CEQA because the Project will be carried out by the City, a public agency, even though a portion of the Project would be located within the jurisdiction of the District, another public agency, and the Project requires an non-appealed Coastal Development Permit (CDP) under the California Coastal Act, as well as an easement and approval to use District mitigation lands, and the District is the public agency which has discretionary approval power over the Project with respect to the non-appealable CDP and easement; and

WHEREAS, all materials with regard to this project were made available to the Board of Port Commissioners (BPC) for its review and consideration of the Proposed Project including, but not limited to, the following:

1. The MND, Findings of Fact and MMRP approved by City for the Project;
2. The draft non-appealable CDP and easement prepared by the District Staff; and
3. All documents and records filed in this proceeding by interested parties.

WHEREAS, the Port Act was adopted by State Legislature as consistent with the Public Trust Doctrine; the proposed BPC actions comply with Section 87 of the Port Act, which allows for the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in Section 87; and therefore, is consistent with the Port Act and Public Trust Doctrine; and

WHEREAS, a duly noticed public hearing was held on June 15, 2016, before the BPC, at which the BPC received public testimony and reviewed and considered all testimony and materials made available to the BPC regarding the Project; and

WHEREAS, the Final MND and the MMRP are, by this reference, incorporated into this Resolution as if fully set forth herein; and

WHEREAS, having reviewed and considered all testimony and materials made available to the BPC, including but not limited to the MND and Findings of Fact and MMRP, the staff reports and all the testimony and evidence in the record of the proceedings with respect to the Project, the BPC took the actions hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District (BPC), as follows:

1. The BPC finds the facts recited above are true and further finds that this BPC has jurisdiction to consider, approve and adopt the subject of this Resolution.
2. The BPC finds and determines that the applicable provisions of the CEQA, CEQA Guidelines, and District Guidelines have been duly observed in conjunction with said hearing and the considerations of this matter and all of the previous proceedings related thereto.
3. Pursuant to CEQA Guidelines Section 15096(a) and (f), the BPC finds and determines that (a) the MND prepared and approved by the City has been presented to the BPC, (b) the BPC has fully reviewed and considered the MND and the environmental effects of the Project within the District's jurisdiction as shown in the MND prior to making a decision whether to approve the Project, and (c) the BPC has reached its own conclusions on whether and how to approve the Project.
4. Pursuant to CEQA Guidelines Section 15096(g) and (h), the BPC hereby adopts as its own and approves the Findings of Fact approved by the

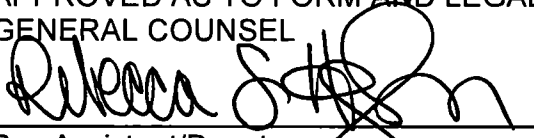
City, which are appended hereto as Exhibit "A" and are made a part hereof by this reference, with respect to the significant environmental effects identified in the MND, and hereby makes and adopts the provisions of the MMRP, attached hereto as Exhibit "B" as conditions of approval for the Project.

5. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Sections 15094 and 15096(i), the District Clerk shall cause a Notice of Determination to be filed with the Clerk of the County of San Diego and the State Office of Planning and Research.

6. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15074(c) the location and custodian of the documents and other materials which constitute the record of proceedings on which this Resolution is based is the Office of the District Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California 92101.

7. As a condition of this approval, the City shall indemnify and hold the District harmless against all third-party legal challenges, claims, lawsuits, proceedings, and the like, including reimbursement of all District attorneys' fees, costs and other expenses incurred by the District, related to the District's approval of the Non-Appealable CDP, use of District mitigation lands and the easement, any subsequent discretionary approvals, the MND and adopted CEQA Findings of Fact for the MND and MMRP for the Project.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL


By: ~~Assistant~~/Deputy

2016-95

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 15th day of June, 2016, by the following vote:

AYES: Castellanos, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: Malcolm.

ABSENT: None.

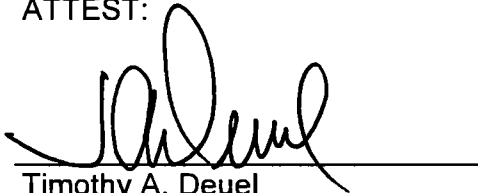
ABSTAIN: None.

RECUSED: Bonelli.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)

EXHIBIT A

RESOLUTION NO. 8784

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORONADO APPROVING A MITIGATED NEGATIVE DECLARATION AND A COASTAL PERMIT TO ALLOW FOR THE INSTALLATION OF A 48" STORM DRAIN AND ASSOCIATED IMPROVEMENTS RUNNING THE LENGTH OF I AVENUE FROM FOURTH STREET TO THE SAN DIEGO BAY

WHEREAS, in accordance with Chapter 86.70 of the City of Coronado Municipal Code, the City of Coronado has been requested to approve a Coastal Permit (CP 2015-05) to allow for the installation of a 48" storm drain, and associated improvements, running the length of I Avenue from Fourth Street to the San Diego Bay; and

WHEREAS, the applicant for the Coastal Permit is the City of Coronado, as described in their application and plans submitted November 25, 2015, which are both made a part hereof and incorporated herein by this reference; and

WHEREAS, the proposed project complies with all policies, goals and standards of the City of Coronado's adopted Local Coastal Program;

WHEREAS, the Planning Commission of the City of Coronado did, pursuant to Coronado Municipal Code Section 86.70.100, hold a Public Hearing on this requested Coastal Permit on January 12, 2016 in which they recommended to the City Council approval of the Mitigated Negative Declaration and Coastal Permit; and

WHEREAS, the City Council of the City of Coronado did, pursuant to Coronado Municipal Code Section 86.70.100, hold a public hearing on this requested Coastal Permit on February 2, 2016; and

WHEREAS, the City Council has reviewed the Mitigated Negative Declaration prepared for the project under the requirements of the California Environmental Quality Act (CEQA) and found that there is no substantial evidence from which it can be fairly argued that the project, as mitigated, will have a significant adverse effect on the environment; and

WHEREAS, said Public Hearing was duly noticed as required by law and all persons desiring to be heard were heard at said hearing; and

WHEREAS, evidence was submitted and considered to include without limitation:

- A. All documentation submitted with and for this Coastal Permit application as provided to the Planning Commission; and
- B. A Mitigated Negative Declaration (State Clearinghouse number 2015101070), including the initial study and comments received in response thereto; and
- C. Oral testimony from staff, applicant, and public made a part of the public record at said Coastal Permit Public Hearing.

NOW, THEREFORE, BE IT RESOLVED that the City Council, after due consideration and at a Public Hearing, finds that:

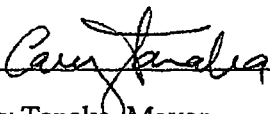
1. The Mitigated Negative Declaration and Mitigation Monitoring Program is hereby approved because it satisfies the requirements of CEQA and there is no substantial evidence from which it can be fairly argued that the project, as mitigated, will have a significant effect on the environment.
2. The Coastal Permit request for the installation of a 48" storm drain, and associated improvements, running the length of I Avenue from Fourth Street to the San Diego Bay is hereby approved, subject to the following condition of approval:
 - a. The project applicant shall agree in writing to the mitigation measures to be included in the project, the requirements of the monitoring program, and the City's proposed plan for funding the mitigation measures and the monitoring method.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Coronado does hereby make the following finding regarding the ongoing nature of this project:

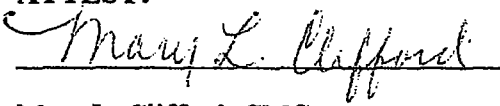
1. The adoption of the Mitigated Negative Declaration (MND) and approval of this Coastal Permit is one of many steps before construction on the storm drain rehabilitation project can commence. After adoption of the MND by the City of Coronado, the City will need to obtain a Right-of-Entry permit from the Port of San Diego, which takes a minimum of two to three months after the City has adopted the MND. Additionally, utility relocations are required before construction can commence, which involves coordination with the Navy and SDG&E, and includes the relocation of a gas line in First Street, which will take a minimum of eight months. Therefore, due to the ongoing nature of the project, the Coastal Permit shall be valid for two years from the date of approval.

PASSED AND ADOPTED by the City Council of the City Coronado, California, this 2nd day of February 2016, by the following vote, to wit:

AYES: BAILEY, DOWNEY, SANDKE, WOIWODE, TANAKA
NAYS: NONE
ABSTAIN: NONE
ABSENT: NONE



Casey Tanaka, Mayor
Coronado City Council

ATTEST:


Mary L. Clifford, CMC
City Clerk

EXHIBIT B

PROJECT MITIGATION AND DESIGN MEASURES				
Issue Area	Mitigation and Design Measures	Implementation Timing	Responsible Monitoring Party⁵	Monitoring/Reporting Method
Hydrology/ Water Quality	<p>HWQ-1: Project design measures, including installation of a low-flow diverter, have been incorporated into the Project and will be installed during the construction phase to reduce potential adverse effects on water quality.</p> <p>Further, additional energy dissipaters (rip-rap) will be installed in the area of the pipe outfall to increase the length of time that stormwater will flow over the extended rip-rap apron (from the pipe outfall to the edge of water) to decrease the velocity of flows, and ultimately, the potential for impacts on eelgrass habitat.</p>	During Project design phase; Prior to issuance of grading permit; During construction	City Engineering Department; Project Contractor	Compliance with Project Conditions of Approval.
Hydrology/ Water Quality	<p>HWQ-2: Standard BMPs will be identified at the time the Storm Water Pollution Prevention Plan is prepared, and will be implemented during the construction phase to reduce potential Project effects on water quality. All BMPs will be implemented consistent with applicable federal, State, and local regulations pertaining to water quality.</p>	During Project design phase; Prior to issuance of grading permit; During construction	City Engineering Department; Project Contractor	Compliance with Project Conditions of Approval.
Biological Resources	<p>BIO-1: During the time revetment is off the slope, turbidity control shall be performed by limiting in-water construction of the drain placement work to periods of low tide. In the event that work is conducted only at low tides, the site shall be covered with a filtering geosynthetic fabric between work windows to control wave erosion on unprotected soils; retain fine sediments to the excavation area; and reduce turbidity release to the bay at high tides. If this is not feasible and in-water construction must be conducted at high tide, then a temporary turbidity curtain shall be deployed around the construction area to limit turbidity drift. The curtain shall extend</p>	Site-Specific Environmental Review; During construction	City Engineering Department; Project Contractor	Compliance with Project Conditions of Approval.

⁵ All agencies are City of Coronado Departments/Divisions unless otherwise noted.

PROJECT MITIGATION AND DESIGN MEASURES				
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	from the riprap on either side of the work area around pipes set at the toe of the riprap such that no more than 500 square feet of projected Bay surface area at high tide is included in the curtailed area.			
Biological Resources	<p>BIO-2: Placement of the rock dissipater apron onto intertidal flats expands the intertidal rock by approximately 134 square feet and is accompanied by the removal of a similar area of non-functional rubble from the flats at the site such that there is no net increase in hardened area associated with the Project. To mitigate impacts of the dissipater on the flats, one of two measures shall be undertaken, as follows:</p> <ul style="list-style-type: none"> i. the City shall request from the San Diego Unified Port District (SDUPD) approval of a waiver of Board Policy 735 to allow for the removal of approximately 134 square feet of non-functional rubble from the intertidal flats within Port jurisdiction to mitigate for impacts to intertidal flats caused by the new outfall dissipater apron, and the City shall document the effective removal and non-recurrence of non-functional rubble from within the balancing rubble removal area associated with the Project. The removal area shall be demonstrated to be free of new rubble migration into the site for a period of 5 years following drain installation through the documentation of site conditions on an annual basis. The City shall submit the rubble monitoring results to the SDUPD for review on an annual basis. This mitigation option would be deemed satisfied if it is demonstrated that an area of non-function rubble equal to the area of the 	Site-Specific Environmental Review; During construction; Post-construction	<p>City Engineering Department; Project Contractor</p> <p>Registered Professional Biologist</p>	Compliance with Project Conditions of Approval

PROJECT MITIGATION AND DESIGN MEASURES				
Issue Area	Mitigation and Design Measures	Implementation Timing	Responsible Monitoring Party^s	Monitoring/Reporting Method
	ii. drain apron has been removed and kept free of rubble for a period of 5 years; or, eelgrass shall be established within the City's eelgrass mitigation site in Glorietta Bay at an area equal to the size of the new energy dissipater. Under this mitigation option, the City shall not be required to monitor the rubble removal area to determine the long-term effectiveness of rubble removals and mitigation shall be deemed completed after eelgrass has been determined to be successfully established as acceptable to the Port, Corps of Engineers, and National Marine Fisheries Service.			
Biological Resources	BIO-3: The Project shall conform to the survey requirements of the Southern California Eelgrass Mitigation Policy (SCEMP) (NMFS 1991, revision 11) or recently adopted California Eelgrass Mitigation Policy (CEMP) (NOAA Fisheries 2014) as may be applied. In southern California these two policies do not differ substantially. In accordance with SCEMP and CEMP requirements, a pre-construction eelgrass survey shall be completed by a qualified biologist within 60 days prior to initiation of construction activities at the Project site. This survey shall include both area and density characterization of the eelgrass bed downstream of the proposed storm drain outfall. Within 30 days following Project completion, a post-construction survey shall be performed by a qualified biologist to quantify any unanticipated losses to eelgrass habitat. The City shall submit both pre- and post-construction survey results to the SDUPD for review. Construction impacts shall then be determined from a comparison of pre- and post-construction survey	Site-Specific Environmental Review; During construction; Post-construction	City Engineering Department; Project Contractor Registered Professional Biologist	Compliance with Project Conditions of Approval.

PROJECT MITIGATION AND DESIGN MEASURES				
Issue Area	Mitigation and Design Measures	Implementation Timing	Responsible Monitoring Party⁵	Monitoring/Reporting Method
	<p>results. Impacts to eelgrass, if any, shall be mitigated in accordance with the SCEMP and CEMP through implementation of Project design elements (refer to Section 8, Project Description, of this IS Checklist) as follows:</p> <ul style="list-style-type: none"> i. situation of the upsized drain outfall at the location of the existing outfall and pulling the discharge point shoreward by two feet; ii. installation of a low-flow interceptor system to reduce the frequency of small drainage events reaching the Bay through the storm drain; and, iii. expansion of the drain apron to account for the larger discharge volume and rates, while removing non-functional revetment located in the rubble/sand slope area to the north of the proposed storm drain pipe outlet upgrade (Figure 5) to provide a potential area for future expansion of eel grass. 			
Biological Resources	<p>BIO-4: Because the Project retains the potential to result in long-term impacts to the adjacent eelgrass bed (downstream of the proposed storm drain outfall) associated with drainage discharges from the upsized outfall, this bed shall be monitored for five years following construction to assess any adverse changes that may occur to eelgrass as shown on Figure 6. Post-construction monitoring has been applied to realignment of storm drain discharge flows to San Diego Bay from the San Diego Regional Airport (Lindbergh Field) and provides a good structure for assessing potential long-term impacts. The monitoring program shall include annual surveys to examine changes in the existing eelgrass bed from storm drain discharges as compared to pre-Project conditions. Pre-Project conditions would include</p>	Site-Specific Environmental Review; Post-construction	<p>City Engineering Department; Project Contractor</p> <p>Registered Professional Biologist</p>	Compliance with Project Conditions of Approval.

PROJECT MITIGATION AND DESIGN MEASURES				
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	<p>present and prior eelgrass distributions from San Diego Bay baseline surveys to account for normal variability. The results of these annual post-construction surveys shall be compared to pre-construction data to determine if there is a difference in eelgrass bed area within the study area between pre- and post-Project conditions. In the event there has been a decline in eelgrass, the difference between pre- and (five year average) post-Project conditions would define the impact extent and establish an eelgrass mitigation requirement for the Project. The City shall submit the results of the annual post-construction surveys to the SDUPD for review.</p> <p>If adverse impacts are determined to have occurred as a result of the Project, such impacts shall be mitigated in accordance with the SCEMP and CEMP through one-time replacement of eelgrass losses at a mitigation site outside of Port jurisdiction in Glorietta Bay, offshore of Glorietta Bay Park, which has been established previously for mitigation of City of Coronado eelgrass impacts. The eelgrass mitigation site within Glorietta Bay was established for the Glorietta Bay Marina project to meet a mitigation need of 567 square meters of eelgrass impact. Due to site design, characteristics, the mitigation site capacity supports a minimum of 1,814 square meters of additional eelgrass mitigation potential. As a result of the size of the available mitigation area, and in the unlikely event that the existing 80 square meter delta eelgrass impact area resulting from ongoing storm drain flows may increase by many times due to the proposed Project, the compensatory mitigation area available to offset project impacts is of adequate size to absorb the additional mitigation need. If long-term impacts to eelgrass are determine to have occurred, the City</p>			

PROJECT MITIGATION AND DESIGN MEASURES				
Issue Area	Mitigation and Design Measures	Implementation Timing	Responsible Monitoring Party ⁵	Monitoring/Reporting Method
	shall submit documentation of the one-time replacement of eelgrass losses within Glorietta Bay to the SDUPD.			
Cultural Resources	<p>CR-1: In the event that buried historic, archaeological, and paleontological resources and/or human remains are discovered during construction or excavation activities along I Avenue and/or within Bay View Park, all operations shall cease within 50 feet of the find and a qualified archaeologist shall be consulted to determine whether the resource requires further study. The City shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If unknown cultural resources are discovered during construction of the Project, the qualified archaeologist shall make recommendations concerning appropriate measures that will be implemented to protect the resources, including but not limited to excavation and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines. Cultural resources may consist of, but are not limited to, stone, wood, or shell artifacts; structural remains; privies; or historic dumpsites. Any previously undiscovered resources found during construction within the Project area shall be recorded on appropriate Department of Parks and Recreation (DPR) 523 forms and evaluated for significance in terms of CEQA criteria. Work in the area of the discovery shall not resume until permission is received from the City of Coronado.</p> <p><i>Standards for Discovery of Human Remains</i> Standard procedures for recording and treating human remains shall occur in accordance with applicable laws, regulations, and guidelines. In-place preservation and protection from further disturbance</p>	During Project grading and excavation; Upon evaluation of any resource discovered and determined to be of significance.	<p>City Engineering Department; Project Contractor</p> <p>Registered Professional Archaeologist</p>	Compliance with Project Conditions of Approval.

PROJECT MITIGATION AND DESIGN MEASURES				
Issue Area	Mitigation and Design Measures	Implementation Timing	Responsible Monitoring Party^s	Monitoring/Reporting Method
	<p>shall always be the preferred approach. If human remains are discovered, work in the immediate vicinity shall stop until the San Diego County coroner can determine whether the remains are those of a Native American. If they are those of a Native American, the following would apply:</p> <ul style="list-style-type: none"> ▪ The coroner shall contact the Native American Heritage Commission. ▪ If released by the coroner, these remains shall be left in situ and covered by fabric or other temporary barriers. ▪ The human remains shall be protected until San Diego County Coroner and the Native American Heritage Commission come to a decision on the final disposition of the remains. <p>According to the California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and willful disturbance of human remains is a felony (Section 7052).</p>			