- Planting shall be included with all soundwalls to the greatest extent possible.
- Planting shall be included with all retaining walls to the greatest extent possible.
- New landscaping shall minimize view blockage of the Pacific Ocean.
- Plants with the potential of becoming skyline trees would be used as much as possible without blocking views of the Pacific Ocean.
- Existing Memorial Oaks would be preserved to the greatest extent feasible, respective of the selected project alternative.
- All new oak trees planted as part of the Memorial Oak tree mitigation measure shall be propagated from the existing Memorial Oak trees.
- All new non-oak planting near the Memorial Oaks shall be species that are easily differentiated from the Memorial Oaks, in terms of their visual character (form, size, color, and or texture).
- Concrete median barrier and new soundwalls in the immediate vicinity of the Memorial Oaks shall include aesthetic treatment unique to the Memorial Oaks area.
- The landscaping plan shall include historically successful plant species throughout the corridor.
- All aesthetic planting shall use larger-container-size plant material where appropriate. Trees shall be planted, at minimum, from 15-gallon containers.
- All permanent storm water treatment measures would be designed to visually fit with the ornamental or natural landscaped roadsides to the greatest extent feasible considering their intended function. Swales, ditches and basins should appear as natural as possible. Built structures would be architecturally treated, colored or hidden from view with planting.

2.1.7 Cultural Resources

Regulatory Setting

The term “cultural resources” as used in this document refers to all historical and archaeological resources, regardless of significance. Laws and regulations dealing with cultural resources include the following:

The National Historic Preservation Act of 1966, as amended, sets forth national policy and procedures regarding historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for the National Register of Historic Places. Section 106 of the act requires federal agencies to take into account the effects of their undertakings on such properties and to allow the Advisory Council on Historic Preservation the opportunity to comment on those undertakings, following regulations issued by the Advisory Council on Historic Preservation (36 Code of Federal Regulations 800). On January 1, 2004, a Section 106 Programmatic Agreement between the Advisory Council, Federal Highway Administration, State Historic Preservation Officer, and Caltrans went into effect for Caltrans projects, both state and local, with Federal Highway Administration involvement. The Programmatic Agreement implements the Advisory Council's regulations, 36 Code of Federal Regulations 800, streamlining the Section 106 process and delegating certain responsibilities to Caltrans. The Federal Highway Administration's responsibilities under the Programmatic Agreement have been assigned to Caltrans as part of the Surface Transportation Project Delivery Pilot Program (23 Code of Federal Regulations 327) (July 1, 2007).

Historic properties may also be covered under Section 4(f) of the U.S. Department of Transportation Act, which regulates the "use" of land from historic properties. (See Appendix B for specific information regarding Section 4(f))

Historical resources are considered under the California Environmental Quality Act, as well as California Public Resources Code Section 5024.1, which established the California Register of Historical Resources. Public Resources Code Section 5024 requires state agencies to identify and protect state-owned resources that meet National Register of Historic Places listing criteria. It further specifically requires Caltrans to inventory state-owned structures in its rights-of-way. Public Resources Code Section 5024.1(e)(5) states that the California Register of Historical Resources includes local landmarks or historic properties designated under a county ordinance.

Affected Environment

A Historic Property Survey Report was completed for the project in October 2010. A Finding of Adverse Effect was completed in February 2011 and subsequently revised in September 2011.

Most of the current area of potential effects was previously examined as part of an earlier Caltrans District 5 project, commonly referred to as the "Santa Barbara Six-

Lane Project," that extended from post miles 1.1 to 12.7. Archaeological and architectural studies for this earlier project began in 1989 and surveyed many of the sites and historic-period resources included in the present project area. Additional fieldwork, either next to or within the limits of the current area of potential effects, was carried out in connection with the Linden Avenue and Casitas Pass Interchanges project and the Milpas Street to Hot Springs/Cabrillo project in 2000, and in connection with supplemental studies for the Linden Avenue and Casitas Pass Road Interchanges project in 2003.

To evaluate cultural resources, several technical studies were prepared. This section summarizes the information collected during the studies and documented in the Historic Property Survey Report and the Finding of Adverse Effect.

Area of Potential Effects

The area of potential effects is the area within which the proposed project has the potential to affect, either directly or indirectly, significant prehistoric or historic archaeological resources or historic-period (pre-1970) built-environment resources. The area of potential effects measures about 11 miles long, running northwest-southeast along the open coast of the Santa Barbara Channel from below Bailard Avenue in the City of Carpinteria (post mile 1.4) to Sycamore Creek in the City of Santa Barbara (post mile 12.3). The width of the area of potential effects varies between about 170 and 385 feet, except for a maximum of about 570 and 670 feet at Sheffield Drive and Cabrillo Boulevard, respectively. The vertical area of potential effects varies between the existing ground surface and a depth of 30 feet where structures would be replaced.

Archaeological Area of Potential Effects

The archaeological area of potential effects encompasses the anticipated ground-disturbing activities for all of the project alternatives and includes all construction areas, equipment staging and material storage areas, and easements. A buffer around the outer limits of these zones is also included within the archaeological area of potential effects to accommodate minor design changes.

Archaeological resource studies for the current project were designed to find previously recorded sites, survey the project area for previously undiscovered historic and prehistoric archaeological sites, and collect archival information. Due to the lapse of time (from 10 years to more than 20 years) since the earlier Santa Barbara Six-Lane and Linden-Casitas and Milpas to Hot Springs/Cabrillo cultural resource studies

were completed, Caltrans reviewed the earlier archaeological survey methods and findings and decided to do broader and more intensive surveys than were done earlier. Extended Phase I testing (limited excavations) was carried out to find the locations of prehistoric and historic archaeological deposits.

All prehistoric archaeological site records within 0.5 mile of the project area were obtained to look for regional patterns. Caltrans also developed a geoarchaeological sensitivity study to assess the potential for buried archaeological deposits within the survey area. The results of the geoarchaeological sensitivity study helped delineate the vertical area of potential effects and assisted with the development of a subsurface test excavation plan. Cultural resources studies included ongoing consultation with members of the local Chumash (Native American) communities on project findings, sacred lands, and special tribal concerns.

Historic Properties in the Archaeological Area of Potential Effects

Caltrans identified nine prehistoric archaeological resources within the current area of potential effects. Of these, Caltrans determined that one site—P-42-003943, commonly referred to as the Via Real Redeposited Midden—is eligible for listing in the National Register of Historic Places under Criterion D for its potential to answer important research questions on regional prehistory. The State Historic Preservation Officer concurred with this determination on April 7, 2011 (see Chapter 4 and Appendix D). The Via Real Redeposited Midden contains a rich mix of artifacts and subsistence remains. Artifacts include cobble/core tools, handstones, an obsidian core, and Monterey chert and quartzite debitage. Subsistence remains include shellfish, mammal bone and fish bone, including species obtained from local terrestrial, estuary, near-shore, and deep water habitats. Although the midden was moved onsite from its original location, it is not mixed with road fill or other non-archaeological sediments and appears to represent a single-component deposit, as evidenced by four radiocarbon dates, all corresponding to the latter half of the Early Period (between 4,010 and 3,155 years before present). No historic archaeological resources were identified within the area of potential effects.

Architectural Area of Potential Effects

The architectural area of potential effects includes not only the area delineated by the archaeological area of potential effects, but also parcels (or portions of parcels) occupied by historic-period (pre-1970) buildings and structures that have the potential to be affected either directly or indirectly by project activities. All of the historic-

period resources within the limits of the architectural area of potential effects were evaluated for eligibility for listing in the National Register of Historic Places.

Identification of historic properties involved review and study of pertinent literature, historic property listings, and appropriate inventories and databases, as well as research at local, regional, and state archives, including the Caltrans District 5 archives. Caltrans also performed intensive field surveys and consulted with the public, local government, and the historic preservation community (see Chapter 4). Caltrans revisited built-environment resources within the current area of potential effects that had previously been evaluated in 1989-91, 2000, and 2003, updating findings as appropriate. Caltrans also evaluated historic-period built-environment resources built between 1946 and 1969 that are within the limits of the current architectural area of potential effects but had not been studied before. Additional cultural resources studies targeted the potential for proposed soundwalls, retaining walls, and overcrossings to result in direct or indirect effects to historic properties due to loss of views or to construction-related, ground-borne vibration.

Historic Properties in the Architectural Area of Potential Effects

Caltrans identified 11 historic-period properties within the current architectural area of potential effects that have either been listed in or determined eligible for listing in the National Register of Historic Places. These historic properties include the following: 1) properties previously evaluated and determined eligible for listing in the National Register of Historic Places that were confirmed eligible as a result of the current study, without any changes to the earlier eligibility findings; 2) properties previously evaluated and determined eligible for listing in the National Register of Historic Places that were confirmed eligible as a result of the current study with modified eligibility findings; 3) properties previously determined not eligible for listing in the National Register of Historic Places that were reevaluated in the current study and determined eligible; and 4) properties evaluated for the first time as a result of the current study and determined eligible for listing in the National Register of Historic Places.

The State Historic Preservation Officer concurred with the revised and current eligibility determinations on January 26, 2011 (see Appendix D). The State Historic Preservation Officer was unable to agree or disagree with Caltrans' determination of eligibility under National Register Criterion C (architectural significance) for the Martin/Bushnell-Donnelly House, the Stuart and Laura Darling House, and the J. Warren Darling House in Summerland. To resolve the eligibility determination,

Caltrans accepted the State Historic Preservation Officer's offer to assume eligibility under Criterion C for the purposes of this project only. Final concurrence incorporating this condition was reached on February 16, 2011 (see Appendix D).

From east to west, the 11 historic properties are as follows:

- *Floyd J. Hickey House, 2492 Lillie Avenue, Summerland*—This residence was originally evaluated in 1991 and was determined eligible for listing in the National Register of Historic Places as a contributor to the "Summerland Residential Historic District." The evaluation also determined that the residence appeared to be individually eligible, at the local level of significance, under Criterion A for its association with Summerland's Spiritualist beginnings and the peak years of the community's oil and kelp industries, and under Criterion B for its association with Floyd J. Hickey, one of Summerland's earliest oil production promoters and entrepreneurs. The State Historic Preservation Officer concurred with this determination in January 25, 1993 during review associated with the Santa Barbara Six-Lane study.

  Research done in 2009, however, has resulted in a reevaluation of the property with slightly different conclusions. The "Summerland Residential Historic District," designated in 1991, was made up of four residential properties. Two of the four properties have been altered to such an extent that the district no longer has sufficient architectural integrity or cohesion to be eligible for listing. The Floyd-Hickey House is not eligible under Criterion A because it has not been shown that there are strong or direct associations with the Spiritualist colony, with the development of the Summerland oil industry, or with any other trend or event in Summerland's early history. The residence does remain individually eligible under Criterion B, and is also eligible under Criterion C for its architectural merits as an intact and early example of a Folk Victorian residence in Summerland.

- *Lillis-Sloan House, 2480 Lillie Avenue, Summerland*—This home was originally evaluated in 1991 and was determined eligible for listing in the National Register of Historic Places as a contributor to the "Summerland Residential Historic District." The evaluation also determined that the home appeared to be individually eligible, at the local level of significance, under Criterion A for its association with Summerland's Spiritualist beginnings and the peak years of the community's oil and kelp industries, and under Criterion

B for its association with John C. Lillis, one of Summerland's earliest oil production promoters and entrepreneurs. The State Historic Preservation Officer concurred with this determination on January 25, 1993 during review associated with the Santa Barbara Six-Lane study.

Research done in 2009, however, has resulted in a reevaluation of the property with slightly different conclusions. The "Summerland Residential Historic District," designated in 1991, was made up of four residential properties. Two of the four properties have been altered to such an extent that the district no longer has sufficient architectural integrity or cohesion to be eligible for listing. The Lillis-Sloan House is not eligible under Criterion A because it has not been shown that there are strong or direct associations with the Spiritualist colony, with the development of the Summerland oil industry, or with any other trend or event in Summerland's early history. The residence does remain individually eligible under Criterion B, and is also eligible under Criterion C for its architectural merits as an intact and early example of a Folk Victorian residence in Summerland.

- *Martin/Bushnell-Donnelly House, 2465 Banner Avenue, Summerland*—This home was evaluated for the first time in 2009 in connection with the current project. The property was determined eligible for listing in the National Register of Historic Places, at the local level of significance, under Criterion C for its architectural merits as an important and intact local example of Victorian architecture. Under the terms of the State Historic Preservation Officer's concurrence on February 16, 2011, the property is eligible under Criterion C for the purposes of the current project only.

- *Dwight and Hattie Kempton House, 2290 Varley Street, Summerland*—This home was evaluated for the first time in 2009 in connection with the current project. The property was determined eligible for listing in the National Register of Historic Places, at the local level of significance, under Criterion B for its association with Dwight Kempton, an important figure in the Summerland oil industry throughout the boom years, not only helping to trigger the rush to develop oil, but also directly contributing to the success of the industry and the growth of the local economy. The property served not only as his home, but also contained his professional office and is the known surviving property that best represents Kempton's achievements.

- *McIntyre House, 2274 Lillie Avenue, Summerland*—The McIntyre house was evaluated in 1991 and determined eligible for listing in the National Register of Historic Places under Criterion C for its architectural merits as a good representative of the vernacular cottage house type. The State Historic Preservation Officer concurred with this determination on January 25, 1993 during review associated with the Santa Barbara Six-Lane study.

- *J. Warren Darling House, 2236 Lillie Avenue, Summerland*—This house was evaluated for the first time in 2009 in connection with the current project. The property was determined eligible for listing in the National Register of Historic Places, at the local level of significance, under Criterion B for its association with J. Warren Darling, a machinist and blacksmith who, along with his brother Stuart Darling, played an important role in Summerland's early oil industry. The property was determined eligible also under Criterion C as an important local example of the Folk Victorian style. Under the terms of the State Historic Preservation Officer's concurrence on February 16, 2011, the property's eligibility under Criterion C is for the purposes of the current project only.

- *Stuart and Laura Darling House, 2225 Lillie Avenue, Summerland*—The Darling house was evaluated for the first time in 2009 and determined to be eligible for listing in the National Register of Historic Places, at the local level of significance, under Criterion B, for its association with Stuart Darling, a machinist and blacksmith who, along with his brother J. Warren Darling, played an important role in Summerland's early oil industry. The property was determined eligible also under Criterion C as an important local example of the Folk Victorian style.

- *George and Agnes Becker House, 108 Pierpont Avenue, Summerland*—This property, known as the former Big Yellow House Restaurant, was originally evaluated for listing in the National Register of Historic Places in 1991. It was determined eligible, at the local level of significance, under Criteria A, B, and C. The State Historic Preservation Officer concurred on January 25, 1993 during review associated with the Santa Barbara Six-Lane study.

  The property was reevaluated in 2009, however, and additional research was done. Eligibility under Criterion C, as a rare example of a Prairie-style residence in Summerland, was confirmed, but it was found that the earlier

rationale for local significance under Criterion A (association with Summerland's oil industry) and Criterion B (association with oil entrepreneur George F. Becker) needed to be revised. The home, though originally built in about 1900, was renovated between 1912 and 1914 to its current Prairie-style architecture. The residence's association with the oil industry did not occur therefore until after the industry was already in decline. Similarly, Becker's association with the oil industry occurred after the boom years, and his contributions to the local industry were not significant.

- *Ortega-Masini Adobe, 129 Sheffield Drive, Montecito*—In 1993, the adobe was determined eligible for listing in the National Register of Historic Places, at the local level of significance, under Criterion A for its association with early settlement in coastal Santa Barbara during the Mexican period, and under Criterion C as a rare Santa Barbara example of a Monterey-style, two-story adobe. The adobe was designated Santa Barbara County Landmark Number 31 in July 1992. The period of significance is the date of construction (circa 1820s).

- *Danielson-Katenkamp House, 1637 Posilipo Lane, Montecito*—In 1993, this historic property was determined eligible for listing in the National Register of Historic Places, at the local level of significance, under Criterion C as a finely crafted example of architect Arthur B. Benton's chalet style. The period of significance is 1912, the date of construction. The State Historic Preservation Officer concurred on January 25, 1993 during review associated with the Santa Barbara Six-Lane study.

- *Montecito Inn, 1295 Coast Village Road, Montecito*—In 1991, the Montecito Inn was evaluated for listing in the National Register of Historic Places. It was determined at that time that the Montecito Inn had been altered too extensively to be listed. The State Historic Preservation Officer concurred with this determination in 1993 (see Appendix D).

  In 2009, however, the Montecito Inn was reevaluated, additional research was done, and it was determined that the property retained sufficient integrity to be able to convey its historical significance. It was therefore determined eligible for listing in the National Register, at the local level of significance, under Criterion A for its associations with Santa Barbara area tourism and the hotel construction boom in the years immediately following the 1925 earthquake, as

well as with the trend of providing roadside accommodations tailored specifically to motoring tourists.

The Montecito Inn was also determined eligible for listing under Criterion C as an important work by master designer Edward L. Mayberry and as an early example of a type, period, and method of construction representing post-earthquake Spanish Revival commercial architecture in Montecito. The period of significance is 1928, the date of construction.

Properties in the Area of Potential Effects that are Not Eligible for the National Register of Historic Places and are Not Historical Resources for the Purposes of the California Environmental Quality Act

Caltrans identified 95 historic-period properties within the current area of potential effects that are not eligible for the National Register of Historic Places. These properties include the following: 1) properties previously evaluated and determined not eligible for listing in the National Register of Historic Places that were confirmed not eligible as a result of the current study, without any changes to the earlier eligibility findings; 2) properties previously evaluated and determined not eligible for listing in the National Register of Historic Places that were confirmed not eligible as a result of the current study, with modified eligibility findings; 3) properties previously determined eligible for listing in the National Register of Historic Places but reevaluated in the current study and determined to be not eligible; and 4) properties evaluated for the first time as a result of the current study and determined to be not eligible for listing in the National Register of Historic Places.

The State Historic Preservation Officer originally concurred on eligibility on January 25, 1993 during review associated with the Santa Barbara Six-Lane study. After reviewing the Historic Property Survey Report and updated information submitted by Caltrans, the State Historic Preservation Officer concurred on January 26, 2011 that four Summerland properties and one Montecito property previously determined eligible for listing in the National Register were no longer eligible (see Appendix D). The revised eligibility is a result either of extensive alterations that caused a loss of architectural integrity or additional research that arrived at different conclusions about the properties' significance.

From east to west, these five ineligible properties are as follows:

- *Summerland Residential Historic District, 2480, 2484, 2492, and 2496 Lillie Avenue, Summerland*—This historic district comprising four properties was originally evaluated in 1991 and determined eligible for listing in the National Register of Historic Places. The district, reevaluated in 2009 as part of the current project, was determined to lack sufficient integrity and cohesion to remain a historic district. Two of the four properties (2480 and 2492 Lillie Avenue, Summerland), however, were determined to retain their National Register eligibility as individual properties. The other two properties (2496 and 2484 Lillie Avenue, Summerland) are not eligible even as individual properties, as discussed below.

- *Andrew M. Opple House, 2496 Lillie Avenue, Summerland*—This residence was originally evaluated in 1991 and determined to be eligible for listing in the National Register of Historic Places as a contributing element of the Summerland Residential Historic District. The district was reevaluated in 2009 as part of the current project and was determined to lack sufficient integrity and cohesion to remain a historic district. The house has been extensively altered and is no longer eligible for individual listing in the National Register of Historic Places.

- *Lewis-Beresford House, 2484 Lillie Avenue, Summerland*—This residence was originally evaluated in 1991 and determined to be eligible for listing in the National Register of Historic Places as a contributing element of the Summerland Residential Historic District. The district was reevaluated in 2009 as part of the current project and was determined to lack sufficient integrity and cohesion to remain a historic district. The house has been extensively altered and is not eligible for individual listing in the National Register of Historic Places.

- *Bethany (Summerland) Presbyterian Church, 2400 Lillie Avenue, Summerland*—The church was previously evaluated in 1991 and determined to be eligible for listing in the National Register of Historic Places, at the local level of significance, under Criterion A for its association with the development and settlement of Summerland from about 1905 to 1920. It was seen as a reflection of the tremendous surge in population brought about by the oil industry, and as the only non-residential structure surviving from the peak of Summerland's most important era. In 2009, a reevaluation of the church building found that the property had been substantially altered, had lost

architectural integrity, and no longer retained the ability to convey significance from Summerland's early period of settlement and development. The reevaluation concluded that the property is no longer eligible for listing in the National Register of Historic Places.

- *Jacob I. and Alice Eisenberg House, 135 La Vuelta Road, Montecito*—This house was originally evaluated in 1991 and determined eligible for listing in the National Register of Historic Places under Criterion B, at the local level of significance, for its association with Jacob I. Eisenberg whose civic-mindedness directly contributed to the improvement of Santa Barbara's quality of life. The residence has recently been replaced by new construction, resulting in a complete loss of its association with Eisenberg. It no longer retains its original integrity and is no longer eligible for listing in the National Register of Historic Places.

Properties in the Area of Potential Effect that are Not Eligible for the National Register of Historic Places but are Historical Resources for the Purposes of the California Environmental Quality Act

- *Summerland World War I Monument, Lillie Avenue Park, Summerland*– This resource was previously evaluated in 1993 and determined to be not eligible for listing in the National Register of Historic Places, lacking both significance and integrity. The resource was moved to its current location in 1998 and re-evaluated in 2009 in connection with the current project. The reevaluation confirmed that the resource is not eligible for the National Register; as a local county landmark, however, it was determined to be a historical resource for the purposes of the California Environmental Quality Act.

Environmental Consequences

Following concurrence from the State Historic Preservation Officer on the eligibility findings presented in the Historic Property Survey Report, Caltrans prepared a document assessing the potential for the project to cause adverse effects to historic properties within the area of potential effects. These historic properties include resources listed in or eligible for listing in the National Register of Historic Places and considered historical resources for the purposes of the California Environmental Quality Act. Caltrans concluded in a Finding of Adverse Effect (February 2011) that

the proposed project would have an adverse effect on the portion of the Via Real Redeposited Midden within the area of direct impact.

The Finding of Adverse Effect further concluded, however, that none of the proposed project's alternatives would have any direct or indirect effects on the National Register-eligible built-environment (architectural) resources. The proposed project would not alter any of the characteristics that make the historic-period built-environment resources eligible. Similarly, the Finding of Adverse Effect concluded that none of the proposed build alternatives would have any direct or indirect effects on the Summerland World War I Monument, which although not eligible for listing in the National Register of Historic Places, is identified as a historical resource for the purposes of the California Environmental Quality Act.

On March 3, 2011, Caltrans sent the proposed Finding of Adverse Effect to the State Historic Preservation Officer and to members of the Chumash community consultation group. Caltrans also mailed out copies of the Historic Property Survey Report, copies of correspondence with the State Historic Preservation Officer, and notification of the proposed Finding of Adverse Effect to the Santa Barbara County Historic Landmarks Advisory Commission and the City of Santa Barbara Historic Landmarks Commission. Letters were sent out on March 9, 2011 to all of the interested historic preservation groups and organizations previously contacted, notifying them of the proposed Finding of Adverse Effect for the project and including copies of the correspondence with the State Historic Preservation Officer. On April 7, 2011, the State Historic Preservation Officer concurred with the Finding of Adverse Effect. Copies of this concurrence were mailed on April 12, 2011, to the Chumash community and to all of the other interested parties. See Appendix D for details of State Historic Preservation Officer correspondence, and see Chapter 4 for details related to consultation with the Chumash.

A revised Finding of Adverse Effect (September 2011) reflected a change in the project description relative to the proposed soundwalls. The conclusions of the Finding of Adverse Effect, however, remained unchanged. The revised report and mapping were submitted to the State Historic Preservation Officer on October 3, 2011. On November 16, 2011, the State Historic Preservation Officer concurred with the revised Finding of Adverse Effect.

To resolve the project's adverse effects to the Via Real Redeposited Midden, Caltrans continued consultation with the State Historic Preservation Officer and the Chumash

community. On December 6, 2012, Caltrans prepared a Draft Memorandum of Agreement and Data Recovery Plan and submitted these documents concurrently to the State Historic Preservation Officer and the Chumash consultation group. Comments received by Caltrans were incorporated into the draft memorandums.

Subsequent project design revisions in the vicinity of the Via Real Redeposited Midden shifted Alternative 1 (the preferred alternative) toward the median in an effort to minimize potential impacts to the midden. Based on these design revisions, Caltrans revised the Draft Memorandum of Agreement, Treatment Plan, and Data Recovery Plan to address not only impacts to the Via Real Redeposited Midden, but also potential archaeological discoveries that might be made during construction. The revised Draft Memorandum of Agreement, Treatment Plan, and Data Recovery Plan were sent to the Chumash consultation group for further review. The agreement and plans were submitted to the State Historic Preservation Officer on May 2, 2013.

After additional consultation with the State Historic Preservation Officer May 28-30, 2013, Caltrans restructured the adverse effect resolution document as a Programmatic Agreement, with the Treatment and Data Recovery Plan attached. The Programmatic Agreement was signed by the State Historic Preservation Officer on June 20, 2013, and the Advisory Council on Historic Preservation acknowledged receipt of the fully executed Programmatic Agreement on December 24, 2013. As a result, any adverse effects will now be resolved by implementing the *Treatment and Data Recovery Plan for the South Coast 101 High Occupancy Vehicle Lanes Project*, *Santa Barbara County, California,* which is Attachment B of the June 20, 2013 *Programmatic Agreement between the California Department of Transportation and the California State Historic Preservation Officer Regarding the South Coast 101 HOV Lanes Project, U.S. Route 101, Santa Barbara County, California* (see Appendix D, State *Historic Preservation Officer Correspondence).*

Caltrans has conducted extensive studies to characterize the location, extent, and composition of the midden deposit. Background research documented previous construction activities within the project Area of Potential Effects to assess the likelihood of finding any original ground or areas that had not been previously disturbed. The current South Coast 101 HOV Lanes project is limited to the existing state right-of-way—all of which has been highly disturbed by prior construction of the existing mainline highway and structures, as well as by utilities installation. A thorough archaeological survey was made of the project area, and a detailed geoarchaeological model was developed to identify and test the most likely areas for

any buried archaeological deposits. These comprehensive studies suggest that the National Register-eligible portion of the site is not only located below the level of proposed Highway 101 construction but is also located outside the state right-of-way—and therefore outside the Area of Direct Impact.

Avoidance, Minimization, and/or Mitigation Measures

Although we do not anticipate impacts to the redeposited midden, Caltrans nevertheless deems it prudent to consider the remote possibility of discoveries during construction. The June 20, 2013 Programmatic Agreement includes the following stipulations in the unlikely event that archaeological resources are encountered during construction:

Treatment of Historic Properties

- Caltrans shall ensure that any adverse effects of the Undertaking [i.e., the South Coast 101 HOV Lanes project] on the Via Real Redeposited Midden (P-42-003943) and effects to any similar as yet unidentified properties discovered during construction are resolved by implementing the [June] 2013 *Treatment and Data Recovery Plan for the South Coast 101 HOV Lanes PlanProject, Santa Barbara County, California* (Treatment and Data Recovery Plan) that is Attachment B to the [Programmatic Agreement, see Appendix D, Volume II]. The Via Real Redeposited Midden (P-42-003943) is eligible for inclusion in the National Register of Historic Places under Criterion D. Data recovery is prescribed for archaeological deposits contributing to the National Register eligibility of the historic property Via Real Redeposited Midden (P-42-003943) within the Undertaking's construction area of direct impact.

- The location of the eligible portion of the Via Real Redeposited Midden (P-42003943) outside the [Area of Direct Impact] can be avoided during construction through the establishment and enforcement of an Environmentally Sensitive Area (ESA). The location shall be designated an [Environmentally Sensitive Area] during construction and protected with exclusionary fencing pursuant to Stipulation X.B.2.a.ii and Attachment 5 of the Programmatic Agreement. The Via Real Redeposited Midden (P-42-003943) area outside of the [Area of Direct Impact] shall be depicted on construction plans and will be designated an [Environmentally Sensitive Area] with no access allowed during construction. Additionally, the District 5 Environmental Construction Liaison will have a copy of the plan on file and maintain contact with the resident

engineer, construction contractor, and archaeologist on [Environmentally Sensitive Area] compliance.

- [This stipulation addresses procedures for amending the Data Recovery Plan and resolving disputes; see Appendix D (Volume II), State Historic Preservation Officer Correspondence, for complete text].
- Caltrans will not authorize the execution of any Undertaking activity that may adversely affect (36 CFR §800.16(l)) historic properties in the Undertaking's APE without implementing the procedures that the Data Recovery Plan prescribes.

Additional Programmatic Agreement stipulations relate to reporting requirements and to ongoing Native American consultation (see Appendix D, State Historic Preservation Officer Correspondence for complete text), and to the following:

Treatment of Human Remains of Native American Origin

The [Programmatic Agreement] parties agree that human remains and related items discovered during the implementation of the terms of the [Programmatic Agreement] and of the Undertaking will be treated in accordance with the requirements of §7050.5(b) of the California Health and Safety Code. If, pursuant to §7050.5(c) of the California Health and Safety Code, the county coroner/medical examiner determines that the human remains are or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of §5097.98(a)-(d) of the California Public Resources Code. The discovery of human remains may constitute the discovery of a historic property, and as such, should be consulted upon pursuant to Stipulation VI in addition to the provisions of this stipulation.

Discoveries and Unanticipated Effects

If Caltrans determines during the implementation of the Data Recovery Plan or after construction of the Undertaking has commenced, that either the implementation of the Data Recovery Plan or the Undertaking will affect a previously unidentified property that may be eligible for the National Register, or affect a known historic property in an unanticipated manner, Caltrans shall address the discovery or unanticipated effect in accordance with 36 CFR §800.13(b). Caltrans at its discretion may hereunder and in accordance with 36 CFR §800.13(c) assume any discovered property to be eligible for inclusion in the National Register.