San Diego Unified Port District
Document No. 72940
Filed 07/07/21
Office of the District Clerk

BPC Policy No. 774

SUBJECT: POND 20 ECONOMIC DEVELOPMENT FUND ("Pond 20 EDF")

PURPOSE: To establish a policy for the collection and distribution of net revenue received by the San Diego Unified Port District ("District") from mitigation banking or other revenue generating uses or development which may occur on four defined parcels in south San Diego Bay, including the southern portion of Pond 20 (Bank Parcel) and three adjacent District-owned parcels (Parcels A, B, and C), shown on Attachment A (collectively, the Bank Parcel and Parcels A, B, and C are referred to as "Pond 20") .

PREAMBLE: The District manages the state tidelands and submerged lands it owns for the benefit and enjoyment of the people of the state of California in accordance with the Port Act.

Over the course of more than 15 years, the District has conducted numerous public outreach processes and professional evaluation to determine the highest and best use of Pond 20, with guidance from a Memorandum of Understanding ("MOU") between the District, the City of Imperial Beach, and City of San Diego. As a result, the District has determined that a mix of mitigation banking and commercial development is the best use for Pond 20.

The Board of Port Commissioners ("Board") desires to establish the Pond 20 EDF in which to place the District's net revenue from Pond 20 development, after reimbursement to the District for all costs and expenses, and after the District has received a reasonable rate of return. A reasonable rate of return shall be defined on a project-by-project basis when a project is approved by the Board. The Pond 20 EDF funds may be spent on economic development and public improvement projects in the City of Imperial Beach and in adjacent portions of the City of San Diego's City Council District 8, in accordance with the Port Act.

BACKGROUND OF POND 20: The Bank Parcel and Parcels A, B, and C cover approximately 95 acres and is located at the southern end of San Diego Bay in the City of San Diego, adjacent to the City of Imperial Beach.

The site was purchased by the District in October 1998 as part of the 836-acre Western Salt land acquisition. Of the 836 acres, 722 acres were transferred to the State of California as off-site mitigation for the expansion of the San Diego International Airport, leading to the creation of the South San Diego Bay National Wildlife Refuge. The remaining 114 acres were vested in the District for future development in accordance with the Public Trust. When the San Diego County Regional Airport Authority ("Airport

Authority") was established as a separate agency from the District in 2003, State Senate Bill 1896 provided that the District retain ownership of approximately 95 acres(Bank Parcel and Parcels A, B, and C), with reimbursement for the costs of the land to the Airport Authority. It has been determined that the highest and best use of the approximately 83.5 acre Bank Parcel site would be for mitigation banking, including 76.5 acres available for wetland credits and seven acres for wetlands buffers. Parcels A (2.7 acres), B (1 acre), and C (8 acres) would be suitable for revenue generating development including commercial uses, as feasible.

ESTABLISHMENT OF THE EDF: The Pond 20 EDF is hereby established. Annually, the District shall transfer to the Pond 20 EDF all net revenue derived from the Bank Parcel and Parcels A, B, and C after reimbursement to the District for all costs, expenses, and reasonable return related thereto. All funds transferred to the EDF shall be equally divided between two sub-funds – one designated for projects in the City of Imperial Beach and one for projects in the adjacent portion of the City of San Diego's City Council District 8. Projects funded by the Pond 20 EDF must comply with the criteria and process below.

PROJECT CRITERIA: Projects eligible for the Pond 20 EDF funding must: (1) comply with the Port Act, and (2) generate jobs, or economic benefit, or (3) constitute a public improvement within the City of Imperial Beach and adjacent portion of San Diego's City Council District 8.

PROCESS FOR APPLYING FOR THE EDF: Pond 20 EDF project applications may be submitted for funding by the City of Imperial Beach and the City of San Diego Council District 8 Councilmember, the Board, and public entities. Each applicant may only submit projects requesting use of each City's applicable sub-fund. However, joint project applications may be submitted. Applications for Pond 20 EDF funding should present as much information and detail as available to the applicant. At a minimum, applications must include the following:

A) A project description, including a statement of need for the project, amount of Pond 20 EDF funding requested, a budget for the project, and the amount and sources of non-Pond 20 EDF funding, including documented in-kind services;
B) An explanation or description of what economic improvements or public benefit the project is expected to produce; and
C) An explanation for why the amount of Pond 20 EDF funding requested is reasonable in light of the expected return on the investment or the degree of public benefit.

District staff will coordinate with applicants to review and clarify the application prior to consideration by the Board. However, it is the responsibility of the applicant to present

as much information as available when completing the application. The funds will be disbursed in accordance with an EDF funding agreement.

EDF PROJECT SELECTION: Applications for Pond 20 EDF support can be proposed at any time after the fund is activated. District staff will review the applications and present them to the Board on a periodic basis.

The District will develop administrative procedures to more fully set forth the application, staff review, and Board presentation process.

All approved Pond 20 EDF projects must obligate funding within 36 months, and the period of performance will be no longer than five years from the date of execution of an Pond 20 EDF funding agreement with the applicant.

Board approval of funding for Pond 20 EDF projects may be subject to further consideration or approval by the State Lands Commission; environmental analysis under the California Environmental Quality Act and other laws; consistency with the Coastal Act; other needed entitlements; execution of an agreement between the District and applicant; and other requirements, as applicable.

REPORTING TO THE BOARD: The Executive Director will report to the Board periodically on the status of approved Pond 20 EDF projects. The report will contain the list of approved Pond 20 EDF projects, funds expended to date, overall EDF fund obligated balance, new projects submitted, and the status of Pond 20 EDF project reviews.

RESOLUTION NUMBER AND DATE: 2021-054, dated April 13, 2021 (Supersedes BPC Policy 2015-151, dated November 17, 2015)

Attachment A
Project Site Characteristics

RESOLUTION 2021-054

RESOLUTION AMENDING BPC POLICY NO. 774, THE POND 20 ECONOMIC DEVELOPMENT FUND, TO INCLUDE PARCEL B, A ONE ACRE PARCEL, AND FOR MINOR CLARIFYING REVISIONS

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 1, (Port Act); and

WHEREAS, Section 21 of the Port Act authorizes the Board of Port Commissioners (BPC) to pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, on November 17, 2015, by Resolution #2015-151, the BPC adopted BPC Policy No. 774 to establish a Pond 20 Economic Development Fund (EDF); and

WHEREAS, net revenue generated from the Bank Parcel and Parcels A, B, and C after construction, operational costs, expenses, and a reasonable rate of return to the District, would be directed into the Pond 20 EDF; and

WHEREAS, net revenue would be deposited in the EDF and evenly divided into sub-funds for projects that generate jobs or economic benefit, or create a public improvement in the City of Imperial Beach and the San Diego City Council District 8, which are consistent with the Port Act and also accomplish economic development and public improvement; and

WHEREAS, some mitigation credits may be used directly by the District, as opposed to being sold, and would not generate revenue under the Pond 20 EDF; and

WHEREAS, a portion of Parcel B was under a long-term lease when the District acquired the property and since the approval of BPC Policy No. 774, the lease has ended, and the site is currently vacant; and

WHEREAS, the proposed revisions to BPC Policy No. 774 include updated acreages based on surveys conducted during the EIR process, and minor revisions to clarify the potential use of Parcels A, B, and C, which are for revenue generating uses, to the extent feasible.

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

That BPC (Board of Port Commissioners) Policy No. 774 – Economic Development Fund (EDF), as amended, is hereby adopted.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

Christopher Burt
_____
By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of April 2021, by the following vote:

AYES: Bonelli, LeSar, Malcolm, Moore, Naranjo, and Zucchet
NAYS: None.
EXCUSED: Castellanos
ABSENT: None.
ABSTAIN: None.

Michael Zucchet
_____
Michael Zucchet, Chairman
Board of Port Commissioners

ATTEST:

Donna Morales
_____
Donna Morales
District Clerk

(Seal)

Certificate Of Completion

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Subject: Please DocuSign: Ordinance No. 2997 - C Burt.pdf, Ordinance No. 3006 - C Burt.pdf, Resolution N...

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To contact us by email send messages to: rsanagus@portofsandiego.org

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Operating Systems:	Windows® 2000, Windows® XP, Windows Vista®; Mac OS® X
Browsers:	Final release versions of Internet Explorer® 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safari™ 3.0 or above (Mac only)
PDF Reader:	Acrobat® or similar software may be required to view and print PDF files
Screen Resolution:	800 x 600 minimum

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San Diego Unified Port District

3165 Pacific Hwy.
San Diego, CA 92101

Item No. 18D

File #:2021-0048

DATE: April 13, 2021

SUBJECT:

WETLAND MITIGATION BANK AT POND 20 AND PORT MASTER PLAN AMENDMENT:

A) PRESENTATION AND DIRECTION TO STAFF ON WETLAND MITIGATION BANK AT POND 20 AND PORT MASTER PLAN AMENDMENT FINAL ENVIRONMENTAL IMPACT REPORT AND/OR PORT MASTER PLAN AMENDMENT;

B) ADOPT RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING THE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING THE FILING OF THE NOTICE OF DETERMINATION FOR WETLAND MITIGATION BANK AT POND 20 AND PORT MASTER PLAN AMENDMENT;

C) CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION APPROVING THE PORT MASTER PLAN AMENDMENT FOR THE WETLAND MITIGATION BANK, AND DIRECTING THE FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION; AND

D) RESOLUTION AMENDING BPC POLICY NO. 774, THE POND 20 ECONOMIC DEVELOPMENT FUND, TO INCLUDE PARCEL B, A ONE ACRE PARCEL, AND FOR MINOR CLARIFYING REVISIONS.

EXECUTIVE SUMMARY:

The Project Site consists of approximately 95 acres, located at the southernmost portion of San Diego Bay, within the limits of the City of San Diego and adjacent to Imperial Beach (Attachment A). The Project Site is divided into two main areas: the Bank Parcel, which is approximately 83.5 acres, contains the southern portion the former salt evaporation pond known as Pond 20, the surrounding berms, as well as a portion of Nestor Creek and the Otay River Tributary; and Parcels A, B, and C, which are located immediately adjacent to the Bank Parcel, outside of the Pond 20 berms.

A 76.5 acre wetland mitigation bank is proposed within the 83.5 acre Bank Parcel, which involves the creation, restoration, and on-going maintenance and monitoring of tidal wetland habitat and upland buffer habitat. An Environmental Impact Report (EIR) was prepared to evaluate potential impacts associated with (1) incorporating the Bank Parcel into the Port Master Plan (PMP) and creating a wetland mitigation bank within the Bank Parcel, and (2) incorporating Parcels A, B, and C into the PMP. The EIR was circulated for a 47-day public review period, which began on August 20, 2020 and ended on October 5, 2020. The Final EIR was published on the District's website on April 1,

2021.

Implementation of the mitigation bank would allow the District to establish a mitigation credit program that could compensate for future impacts from other public and private development projects under Section 404 of the Clean Water Act (CWA), the California Coastal Act (CCA), the Porter Cologne Water Quality Control Act, and the California Eelgrass Mitigation Policy (CEMP). The credits could be used to replace the following habitats: high marsh, mid marsh, low marsh, intertidal mudflat, transitional habitat, and subtidal eelgrass habitat. Regarding the potential sale of mitigation credits, credit transfers may begin following finalization of the Banking Enabling Instrument once approved by the Interagency Review Team. Construction of the proposed mitigation bank is anticipated to take approximately 17 months. It is anticipated construction would commence in 2022 after final design, engineering, and receipt of all applicable permits. Monitoring and maintenance activities would begin following completion of construction.

The Bank Parcel and Parcels A, B, and C are located on District-owned property, and are currently not incorporated into the PMP. The creation of the mitigation bank, as well as the incorporation of the Bank Parcel into the PMP, are evaluated at a project level in the EIR. Incorporation of Parcels A, B, and C are evaluated in the EIR at a programmatic or conceptual level because the specific details of any future development proposal are unknown; further, the EIR indicates that at the time a specific project is proposed on one or more of Parcels A, B, or C, a Port Master Plan Amendment (PMPA) would be required, prior to development. Although the EIR analysis includes incorporating Parcels A, B, and C into the PMP and assigning a “commercial recreation” land use designation, at this time staff recommends *only* proceeding with incorporating the Bank Parcel, and not Parcels A, B and C, into the PMP.

The District established the Pond 20 Economic Development Fund (EDF) in 2015, which requires the District to transfer all net revenue after a reasonable rate of return derived from the mitigation bank to the EDF, which would then be equally divided between two sub funds to be spent on potential economic development and community investment projects (that would comply with the Port Act and generate jobs and/or economic benefits) in the City of Imperial Beach and the adjacent portion of the City of San Diego’s City Council District 8.

RECOMMENDATION:

Wetland Mitigation Bank at Pond 20 and Port Master Plan Amendment:

A) Presentation and direction to staff on the Wetland Mitigation Bank at Pond 20 and PMPA Final EIR;

B) Adopt resolution certifying the Final EIR, adopting the Findings of Fact and SOCs, adopting the MMRP, and directing the filing of the Notice of Determination (NOD) for the Wetland Mitigation Bank at Pond 20 and PMPA;

C) Conduct public hearing and adopt resolution approving the PMPA for the wetland mitigation bank and directing the filing with the CCC; and

D) Resolution amending BPC Policy No. 774, the Pond 20 Economic Development Fund, to include

Parcel B, a one-acre parcel, and for minor clarifying revisions.

FISCAL IMPACT:

The Environmental Conservation department budgeted $285,000 from the Environmental Fund this fiscal year (FY21) for mitigation banking that includes expenses for the preparation of the project's environmental review and entitlement documents. Funds required for future fiscal year(s) will be budgeted in the appropriate fiscal year, subject to Board approval upon adoption of each fiscal year's budget.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

The Proposed Project, which is discussed in more detail below, is for the creation and maintenance of a wetland mitigation bank and a PMPA to incorporate the Bank Parcel into the PMP. The Bank Parcel is approximately 83.5 acres and includes the 76.5-acre mitigation bank and the surrounding berms and portions of Nestor Creek and the Otay River Tributary. The Bank Parcel collectively with Parcels A, B, and C are, unless otherwise specified, referred to as the "Project Site" in this agenda sheet. The Project Site is located at the southernmost portion of San Diego Bay, within the limits of the City of San Diego and adjacent to Imperial Beach. The Project Site is located north of Palm Avenue, south of the Bayshore Bikeway, east of 13th Street, and southwest of the Otay Valley Regional Park, as shown on Attachment B.

Project Site History

The Project Site historically supported open space and wetland habitats until at least 1870, when salt evaporation and extraction industry began operations in south San Diego Bay. The Western Salt Company (WSC) acquired the Pond 20 in the 1890s and created a large complex of networked condensation and crystallization salt evaporation ponds in South San Diego Bay. Berms were constructed around Pond 20, and a thick impermeable clay layer was placed to hold water and prevent leaching of water from the pond. The berms and thick clay layer are largely intact today. While the South Bay Salt Works still operates in south San Diego Bay, Pond 20 has not been utilized as an evaporation pond since the 1960s. The high elevation, inland location, and distance from other ponds made Pond 20 logistically and economically inefficient due to the increasing cost to pump water.

The Project Site was purchased by the District in 1998 from WSC as part of a 1,400-acre land acquisition. The majority of the purchase was transferred to the California State Lands Commission to satisfy mitigation requirements for the expansion of Terminal 2 at the San Diego International Airport. The State Lands Commission subsequently entered into a 49-year lease, with an option to automatically extend for an additional 66 years, with the U.S. Fish & Wildlife Service (USFWS) to create the South San Diego Bay National Wildlife Refuge (NWR or Refuge). However, effective January 1, 2020, the Refuge was transferred to the District per Senate Bill (SB) 507, which granted and conveyed in trust to the District all rights, title, and interest in certain tidelands and submerged lands, as enumerated in SB 507. After the San Diego County Regional Airport Authority became a separate agency from the District in 2003, the District retained ownership rights to the Project Site, as provided in the SB 1896 (2002), with the intent of utilizing the Project Site (inclusive of the Bank Parcel and adjacent Parcels A (approximately 2.7 acres), B (approximately one acre), and C (approximately eight acres)) for future development, subject to consistency with the Public Trust Doctrine.

The District, in collaboration with the cities of Imperial Beach and San Diego, have conducted numerous public outreach processes, studies, and appraisals to determine the highest and best uses for the Project Site. The result of this effort determined that the highest and best use for the Bank Parcel was to create a wetland mitigation bank.

Proposed Project

The Proposed Project includes the establishment of a wetland mitigation bank on the Bank Parcel. To facilitate the Proposed Project, the proposed PMPA would incorporate the Bank Parcel into the PMP and assign it a designation of Wetlands. After Board approval, if any, staff would submit the PMPA to the Coastal Commission, as required by the CCA. The PMPA is the first discretionary step toward the establishment of a wetland mitigation bank at the Bank Parcel, including the creation, restoration, and ongoing maintenance and monitoring of tidal wetland habitat and upland buffer habitat. Implementation of the Proposed Project would allow the District to establish a mitigation credit program that could compensate for future off site impacts from other public and private development projects under CWA, the CCA, the Porter Cologne Water Quality Control Act, and the CEMP. The mitigation credits proposed would be for the following: high marsh, mid marsh, low marsh, intertidal mudflat, transitional habitat, and subtidal eelgrass habitats.

Background of Board Actions on the Proposed Project

On July 14, 2015, the Board directed staff to develop a request for proposals for mitigation banking and to continue to analyze the development of a mitigation bank on the Project Site. On November 17, 2015, by Resolution #2015-151, the Board adopted Board of Port Commissioners' (BPC) Policy No. 774, which established the Pond 20 EDF. BPC Policy No. 774, calls for net revenue generated from the Bank Parcel after construction, operational costs, expenses, and a reasonable rate of return to the District, would be directed into the Pond 20 EDF.

On December 8, 2015, the Board directed staff to conduct due diligence on the creation of a mitigation bank, which included a feasibility assessment with an evaluation of the demand for mitigation credits, regulatory requirements for long-term maintenance, and conceptual design and

construction estimates.

On June 15, 2016, a Mitigation Ad-hoc Committee was formed to continue the due diligence efforts and to validate assumptions that a mitigation bank would be successful at Pond 20. The Committee evaluated the strengths, risks, and uncertainties associated with creating a mitigation bank.

On November 8, 2016, by Resolution #2016-178, the Board authorized an agreement to prepare construction drawings and mitigation banking documents (e.g., prospectus; banking enabling instrument) for a wetland mitigation bank at Pond 20. Additionally, by Resolution #2016-179, the Board authorized staff to commence environmental review pursuant to the California Environmental Quality Act (CEQA) for the establishment of a mitigation bank on the Bank Parcel and incorporation of the Project Site into the PMP.

Benefits of the Proposed Project

The Proposed Project would expand valuable wetland habitat adjacent to the San Diego Bay NWR, providing essential wetland functions, improved water quality and storm surge and flood protection services for the adjacent community. The wetland vegetation would act as attractors for local wildlife, and the overall wetland would increase other values, including providing habitat for native fish and birds to spawn and breed; resulting in indirect benefits for local bird watching and fishing, as well as providing habitat to increase biodiversity and support diverse wildlife populations and community assemblages within San Diego Bay and across coastal Southern California.

Additionally, the Proposed Project would also provide an economic benefit to the City of Imperial Beach and Council District 8 of the City of San Diego. Net revenue generated from the mitigation bank, after construction, operational costs and expenses, and a reasonable rate of return to the District, would be equally divided between two sub-funds for designated projects in the City of Imperial Beach and the adjacent portion of the City of San Diego's City Council District 8.

Key Restoration and Creation Elements of the Proposed Project

On the northern portion of Pond 20, which is the portion that is not owned by the District, the USFWS, in partnership with Poseidon Resources (Poseidon), is planning the Otay River Estuary Restoration Project (ORERP). The ORERP is a habitat restoration project that is mitigation for the Carlsbad Desalination Plant. The goals of the ORERP are to implement the habitat restoration objectives of the USFWS 2006 San Diego Bay National Wildlife Refuge Comprehensive Conservation Plan, and fulfill the applicable terms and conditions of the permits issued to Poseidon by the California Coastal Commission and San Diego Regional Water Quality Control Board for the Carlsbad Desalination Plant.

The Proposed Project is being designed to be consistent with the wetlands and habitat that are proposed to be created by the ORERP, with similar goals and objectives to protect, preserve, and facilitate establishment of wetland habitat to support wildlife species. Although the two restoration

projects would be restored and operated independently of one another, the adjacency of the two sites would create increased habitat connectivity and contribute meaningful habitat and ecosystem services to the south San Diego Bay area.

The Proposed Project is designed to be a self-sustaining wetlands/marsh habitat. The primary hydrologic source for the Proposed Project would be unobstructed tidal inflows from San Diego Bay and the Otay River, which passes through protected NWR lands before entering the Bank Parcel. The inlet below the Bayshore Bikeway Bridge is approximately 70 feet wide and allows full passage of tidal flows under all tidal regimes. Additional water input to the Bank Parcel would come from precipitation and occasional stormwater inputs via internal loading and runoff from Palm Avenue. Tidal hydrology would be reestablished by breaching the Pond 20 northern perimeter berm (see discussion below). The District would lower the elevation in the Bank Parcel to create a network of tidal channels to facilitate distribution of tidal flows to achieve inundation frequencies required for tidal open water, mudflat, and wetland habitats.

Additionally, restoration would include establishing a transition zone and upland habitats on the existing berms. The District would install suitable native plants and would salvage existing on-site native vegetation for reestablishment after construction of the mitigation bank. Using various protection, restoration, and management strategies, the Proposed Project would also provide ancillary habitat to support protected migratory and resident bird and fish species in the region, such as intermittent openings along the berm to promote nesting habitat for the threatened Western snowy plover.

Berm Breach and Channel Modification

Perimeter Berm

Pond 20 (ORERP site and District's proposed mitigation bank site) is currently enclosed by an existing berm along the southern bank of the Otay River that isolates Pond 20 from receiving tidal flows. There is no natural separation between the ORERP site and proposed mitigation bank site. Construction of the ORERP will begin in May 2021 with a three-year construction schedule.

The ORERP project plans to remove the northern berm along the Otay River which leads to the San Diego Bay to allow tidal flow into the ORERP site. To prevent unintentional tidal and/or flooding of the District's proposed mitigation bank prior buildout, ORERP or the District would construct a levee, in the form of an earthen berm, along the southern edge of the ORERP site. This berm would allow for grading and dredging activities to occur for both projects independently, while significantly reducing any potential for inundation to occur on the proposed mitigation bank site which is anticipated to be completed last. Once both projects are constructed, the berm is anticipated to be left in place.

Berm Breach

To reconnect tidal hydrology to the Proposed Project, the existing berm in the northwest corner of Pond 20 would be breached. After the berm is breached, the network of constructed tidal channels would facilitate distribution of tidal flows to the mitigation bank. The location of the berm breach is depicted in Attachment B. The berm breach would be approximately 75 feet wide and would be partially within the San Diego Bay NWR.

The Proposed Project's berm breach location is on San Diego Bay NWR property and is, therefore,

subject to a Refuge Special Use Permit, administered by the USFWS. As USFWS approval is required for the berm breach, NEPA compliance is required. A NEPA analysis (anticipated to be an Environmental Assessment/Finding of No Significant Impact) would be prepared by USFWS prior to the USFWS' issuance of a Refuge Special Use Permit for the Proposed Project.

Construction Staging and Schedule

The construction staging area is anticipated to occur on Parcel B, which is a District-owned one-acre parcel located southeast of the Project Site along Palm Avenue. Use of Parcel B for construction staging would require site preparation, including minor grading, clearing and grubbing, fencing, and application of gravel or similar product to stabilize the site. Construction staging would be needed to stage project materials, equipment storage, trucking of excavated material, and stockpiling small quantities of excavated materials. Construction of the Proposed Project is anticipated to take approximately 17 months. It is anticipated that construction would commence in 2022 after final design, engineering, and receipt of all applicable permits (e.g., coastal development permit, habitat restoration permits from the ACOE and RWQCB). Monitoring and maintenance activities would begin following completion of construction for 5 years.

Operation, Monitoring, and Maintenance

Bank Establishment

In order to establish a mitigation bank, a prospectus and Banking Enabling Instrument (BEI) need to be prepared by the District and approved by the resource agencies. The prospectus allows the interagency review team (IRT) to review the proposed mitigation bank and general wetland establishment plan, while the BEI acts as a legally binding document that details the management and funding of the mitigation bank.

The District, as the project sponsor, provided the South San Diego Bay Wetland Mitigation Bank Final Prospectus to an IRT coordinated by Army Corps of Engineers and consisting of the U.S. Environmental Protection Agency (EPA); USFWS Ecological Services; National Marine Fisheries Service (NMFS); CCC; and San Diego and Santa Ana Regional Water Quality Control Boards (RWQCB). The prospectus was completed in accordance with the ACOE Prospectus for Mitigation Banks Checklist. The ACOE issued a public notice that the complete prospectus was available for public review, and the public comment period was open from July 5, 2018 to August 22, 2018.

If the Board approves the proposed PMPA, the District will submit a draft BEI to the IRT for review in the next 30 days. Based on discussions with the IRT, the District will then finalize the BEI, which would be signed by the District along with the ACOE, CCC, and U.S. EPA (Region IX). The BEI is an agreement between the District as the mitigation bank sponsor and the regulatory agencies which establishes liability, management and monitoring requirements, performance standards for the mitigation bank, and the terms of approval of the establishment and use of mitigation bank credits.

The final BEI will be brought to the Board in late 2021 as a subsequent action. Regarding the potential sale of mitigation credits, credit transfers may begin following finalization of the BEI, according to the process outlined in the BEI. Further, operation and maintenance of the mitigation bank would be financed by the District's operational funds, including the EDF established by BPC Policy No. 774.

Success Criteria and Monitoring

A 5-year monitoring schedule would be established as part of the BEI. If all performance standards are met prior to the 5th year of monitoring, all bank credits would be released and available for sale/purchase. Details regarding the success criteria and performance standards will be included in the Interim Management Plan and Long-term Management Plan, which will be a part of the BEI.

Long-Term Management and Maintenance

Once all performance standards have been met, the mitigation bank is anticipated to be self-sustaining. However, because of the urban surroundings, long-term management may be needed, such as invasive species monitoring and removal, trash removal, maintenance of site control measures (e.g., fencing); or restoration of any damage from human, maintenance activities, or natural phenomenon.

Additionally, contingency measures and adaptive management measures are proposed in the long-term management plan prepared for the BEI.

Memorandum of Understanding with ORERP Project

The IRT requested that the ORERP project and Proposed Project function as a continuous habitat within both the northern and southern portions of Pond 20. Therefore, the ORERP team and District staff have been meeting regularly to coordinate and discuss design and grading plans, access routes, environmental review, potential hydraulic impacts, and the installation of a berm on Refuge lands. Additionally, at the March 9, 2021 Board meeting, the Board approved a Memorandum of Understanding (MOU) between the District, USFWS, and Poseidon, which will allow for an effective and efficient implementation of the Proposed Project and the ORERP project, including a collaborative planning process for the Otay Riverbank and channel scour; tidal range, and sea level rise; and any potential modifications to the planned berm between the two projects. The MOU is on file in the Office of the District Clerk as Document No. 72299.

Environmental Impact Report

The "Wetland Mitigation Bank at Pond 20 and Port Master Plan Amendment" EIR (UPD #EIR-2019-010; SCH #2019060167) has been prepared in accordance with CEQA (Public Resources Code Section 2100 et seq.), the State CEQA Guidelines, and the District's CEQA Guidelines. The Final EIR consists of four volumes, which are organized as follows:

- Volume 1 contains the Final EIR dated April 2021, which includes the executive summary;

project level impacts and mitigation measures; a list of public agencies commenting on the Draft EIR; comments received on the Draft EIR, the District's responses to those comments; and revisions to the Draft EIR; the Mitigated Monitoring and Reporting Program (MMRP); as well as the revised Draft EIR dated August 2020 (Clerk's Document No. 67425). The Draft EIR includes the executive summary; the introduction; the project description; the project's environmental analysis, impacts and mitigation measures; and project alternatives.

- Volume 2 through 4 contains the Draft EIR Appendices dated August 2020

These four volumes collectively constitute the Final EIR. The Final EIR can be accessed on the District's website at: <https://www.portofsandiego.org/environment/environmental-downloads/land-use-planning.html>.

Project Analyzed in EIR

At the time that the Draft EIR was prepared, the District anticipated that the PMPA would include incorporation of the Project Site (i.e., the mitigation bank, surrounding berms, and portions of Nestor Creek and the Otay River Tributary) and Parcels A, B, and C into the PMP (collectively, the actions described are the "EIR Project"). As such, the project that was analyzed in the EIR contemplated (1) incorporating the Bank Parcel into the Port Master Plan (PMP) and assigning a "wetlands" land use designation, as well as creating a wetland mitigation bank within the Bank Parcel, and (2) incorporating Parcels A, B, and C into the PMP and assigning a "commercial recreation" land use designation. The creation of the mitigation bank, as well as the incorporation of the Bank Parcel into the PMP, are evaluated at a project level in the EIR. Incorporation of Parcels A, B, and C were evaluated in the EIR at a conceptual level because the specific details of any future development proposal were unknown. Further, the EIR indicates that at the time that a specific project is proposed on one or more of Parcels A, B, or C, a PMPA would be required.

Although the EIR analyzed incorporating Parcels A, B, and C into the PMP, at this time staff recommends *only* proceeding with incorporating the Bank Parcel, and not Parcels A, B and C, into the PMP. Advancing Parcels A, B, and C as part of a future PMPA (a later phase of the project) would allow the District to comprehensively consider additional options for use of these sites and, once site-specific details have been established, the District would process a PMPA .

Project Objectives

In accordance with Section 15124(b) of the CEQA Guidelines, the following objectives were identified in the EIR:

1. Incorporate the Bank Parcel into the PMP and assign a land use designation to be compliant with the Port Act and CCA
2. Create a wetland mitigation bank that produces revenue by offering the business community and government agencies the opportunity to purchase predeveloped wetland mitigation credits to mitigate project impacts on wetland habitat
3. Enhance ecological functions at the Bank Parcel by providing forage and nesting habitat for native bird species and habitat for native fish species while also creating additional

environmental co-benefits such as, but not limited to, carbon sequestration, nutrient cycling, and water quality filtration

4. Reduce the chance and scale of flooding within the surrounding off-site area through the Bank Parcel under the existing condition by designing greater capacity to contain stormwater and coastal waters within the Bank Parcel
5. Establish tidal influence and create coastal wetlands by reconnecting the mitigation bank site to tidal flows from San Diego Bay
6. Provide long-term protection for the Bank site by reaching native vegetation coverage and sediment surface elevation success criteria, while providing access for long-term monitoring and restoration of wetlands, as needed
7. Incorporate the District-owned Parcels A, B, and C into the PMP and assign a land use designation to be compliant with the Port Act and CCA
8. Support economic development and community investment consistent with the District's adoption of BPC Policy No. 774 (i.e. the Pond 20 EDF) (BPC 2015)
9. Promote future development on Parcels A, B, and C that complements adjacent uses

Notice of Preparation, Scoping Meeting, and Draft EIR

On June 20, 2019, a Notice of Preparation (NOP) was published, which included an Initial Study determining that a Draft EIR would be needed to evaluate potentially significant impacts to: Aesthetics; Air Quality; Biological Resources; Cultural Resources; Energy; Greenhouse Gas (GHG) Emissions; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use and Planning; Noise; Public Services; Transportation; Tribal Cultural Resources; and Utilities and Service Systems. On July 10, 2019, the District held a public Scoping Meeting at the Dempsey Holder Safety Center, at 950 Ocean Lane in Imperial Beach. In response to the NOP solicitation and scoping meeting, the District received 10 comment letters from the following agencies, organizations, and individuals: County of San Diego - Department of Environmental Heath; U.S. Fish and Wildlife Service - Refuge; California Department of Fish and Wildlife; City of San Diego; Department of Conservation Division of Oil, Gas, and Geothermal Resources; Caltrans - District 11 (2 letters); Native American Heritage Commission; Michael Williams; and Jacklyn Farrington. Subsequently, a Draft EIR was prepared and was circulated for a 47-day public review period, which began on August 20, 2020 and ended on October 5, 2020.

Below is a list of some of the key determinations that were included in the Draft EIR analysis:

- *Impacts Considered Less than Significant Level*: The Initial Study determined that the EIR Project had the potential to result in significant impacts to a number of CEQA resource areas. However, upon further examination, the Draft EIR found that the EIR Project would result in a "less than significant" impact with no mitigation required for Air Quality, Land Use and Planning, and Public Services.

- *Impacts Considered Less than Significant Level with Mitigation Measures Incorporated*: The Draft EIR found that impacts to Aesthetics, Biological Resources, Cultural Resources, Energy, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Tribal

Cultural Resources, and Utilities and Service Systems, would be reduced to a “Less Than Significant Level” with mitigation measures incorporated. With the mitigation measures identified in the EIR, the EIR Project was found to be less than significant in these CEQA resource areas.

- *Impacts Considered Significant and Unavoidable*: The Draft EIR found that the EIR Project would have “Significant and Unavoidable” environmental impacts on the following areas:

    - Direct impacts related to GHG Emissions (program level exceedance of County emission thresholds), Noise (program level short term construction exceedance of City of San Diego noise threshold), and Transportation (program level VMT generation in exceedance of threshold for retail use); and

    - Cumulative impacts related to GHG Emissions and Transportation

The significant and unavoidable impacts identified in the EIR are largely related to the conservative buildout assumptions associated with the program-level future development of Parcels A, B, and C. To analyze potential impacts associated with the EIR Project, the EIR made reasonable, conservative assumptions about buildout of Parcels A, B, and C (construction of approximately 105,000 square feet of building area across the three parcels), which resulted in increased VMT and GHG emissions above existing, baseline conditions. It should be noted that the construction and long-term maintenance of a wetland mitigation bank on the Bank Parcel does not include significant commercial development or associated vehicular use or emissions, and therefore the mitigation bank does not meaningfully contribute to the significant and unavoidable impacts identified in the EIR.

With respect to potential future commercial development on Parcels A, B, and C, it is possible that future specific uses and/or development proposed for Parcels A, B, and C, which would require a future PMPA, may be lesser than what was analyzed in the EIR, which would lessen the impacts, including the significant and unavoidable impacts, identified based upon the conservative buildout assumptions. Moreover, as required by applicable mitigation measures in the EIR, future commercial development of Parcels A, B, and C, should specific development be proposed, would be required to implement design features intended to minimize, to the extent feasible, the potential direct and cumulative impacts related to GHG emissions, noise, and transportation. When future development is proposed on Parcels A, B, and/or C, whether commercial or another use, discretionary action on such development would trigger CEQA compliance and necessitate a determination of whether additional analysis beyond that included in the EIR is required.

There are feasible mitigation measures with respect to the significant and unavoidable environmental impacts; however, the mitigation measures will not fully avoid these impacts and a “Statement of Overriding Considerations” would be needed in order to approve the EIR Project. A Statement of Overriding Considerations allows a lead agency to determine that specific economic, social, or other expected benefits of a project outweigh its potential unavoidable significant environmental risks.

- *Project Alternatives*: The State CEQA Guidelines require that an EIR present a range of reasonable alternatives that could meet a majority of the project's base objectives, but that would avoid or substantially lessen one or more significant environmental impacts. While several project alternatives were initially considered, three were selected for analysis in this EIR. The alternatives considered, but rejected, included an alternative location and alternative design. An alternative site was rejected because Board Policy No. 774 identified the proposed location. Further, the Port Act envisions that District-owned parcels be incorporated into the PMP. These alternatives were rejected because of the failure to meet project objectives, infeasibility, or inability to avoid significant environmental impacts. During the early planning stages of the project, several alternative designs were evaluated. Alternative mitigation bank designs were rejected for evaluation in this EIR because the IRT consisting of representatives from the ACOE, CCC, USFWS, NMFS, EPA, and RWQCB have reviewed the design proposed in this EIR and the banking enabling instrument process is underway for this design.

  The EIR analyzed the following three alternatives:

  - *Alternative 1 - No Project/No Wetland Mitigation Bank or PMPA Alternative*: This alternative assumes no wetland mitigation bank would be developed, and no parcels would be incorporated into the PMP. The Project Site would remain in its current undeveloped condition.

  - *Alternative 2 - Wetland Mitigation Bank and No Commercial Development on Parcels A, B, and C:* This alternative assumes the creation of the wetland mitigation bank would occur as described in this EIR. The Bank Parcel would be incorporated into the PMP and assigned the land use designation of "wetlands." Parcels A, B, and C would still be incorporated into the PMP; however, instead of the land use designation of "commercial recreation," the land use designation of "open space" would be assigned. The land use designation of open space allows for passive uses such as outlooks, picnic areas, spur trails, and/or interpretive and educational opportunities. This alternative assumes preservation and protection of the wetland features on Parcels A and C.

  - *Alternative 3 - Wetland Mitigation Bank, Commercial Recreation on Parcels B and C, and Open Space on Parcel A*: This alternative assumes the creation of the wetland mitigation bank would occur as described in the EIR. The Bank Parcel would be incorporated into the PMP and assigned a land use designation of "wetlands." Parcels B and C would still be incorporated into the PMP as "commercial recreation" land uses, as described in this EIR. Parcel A would be incorporated into the PMP and assigned land use designation of "open space." Similar to Alternative 2, the open space land use designation would allow for passive uses on Parcel A. This alternative assumes preservation and protection of the wetland features on Parcel A.

Comment letters on the Draft EIR were received from seven agencies including the County of San Diego Department of Environmental Health, California Department of Transportation, California Coastal Commission, City of San Diego, City of Imperial Beach, United States Fish and Wildlife Service, California Department of Fish and Wildlife. Additionally, two comment letters were sent by organizations/businesses including the San Diego Audubon Society and Poseidon Resources, as

well as three individuals including Dawn Diley, Joe Ellis, and Kate Pillet. The topics generally covered in the comment letters were related to biological resources, land use and planning, hydrology and water quality, and cumulative impacts. Written responses to the comment letters are included in the Final EIR, as discussed below.

Final EIR

The Final EIR includes the executive summary, comments received on the Draft EIR and the District's responses to those comments, as well as a section called "Additional Changes" that further clarifies, corrects or adds information to the EIR based, in part, on information collected as part of the public review process. Examples of some of the items in the "Additional Changes" section include the following:

- Clarifications on the project description (e.g., revised construction schedule, the size of the developed portion of Parcel B, the timing of site perimeter berm construction, the applicability of Senate Bill 507, and an additional restoration strategy); and
- A revised version of a Final Biological Technical Report, which replaces the draft report appended to the Final EIR as Appendix E.

The Final EIR also includes the Project's MMRP, discussed in more detail below.

The additional information contained in the District's responses to comments clarifies and further substantiates the conclusions contained in the Draft EIR. None of the comments received on the Draft EIR constitute or result in significant new information requiring recirculation of the EIR under CEQA Guidelines Section 15088.5.

Similarly, the changes contained in the Final EIR are minor and do not constitute significant new information or a change in the Draft EIR's conclusions. The Final EIR document was prepared to ensure the accuracy and completeness of the environmental analysis. The Final EIR is available for review in the Office of the District Clerk and is also accessible on the District's website at: <https://www.portofsandiego.org/environment/environmental-downloads/land-use-planning.html>

Mitigation Monitoring and Reporting Program

As concluded by the Draft EIR and Final EIR, the Project would result in significant and unavoidable direct impacts related to GHG emissions, noise, and transportation. With the exception of the significant and unavoidable impacts on GHG emissions, noise, and transportation, all project level and cumulative impacts can be mitigated to below a level of significance with the implementation of the mitigation measures outlined in the MMRP (Attachment C). These mitigation measures are summarized below:

- *Aesthetics*: Reduced Glare Building Materials
- *Aesthetics*: Shield of Downcast Nighttime Lighting
- *Biological Resources:* Implement Biological Resource Protection Measures During Construction
- *Biological Resources:* Preconstruction Rare Plant Surveys

- *Biological Resources:* Restoration of Temporary Impacts
- *Biological Resources:* Preconstruction Surveys for Federally and State Listed Avian Species
- *Biological Resources:* Preconstruction Surveys for Burrowing Owl
- *Biological Resources:* Implement Long-Term Operations Maintenance and Management Plan
- *Biological Resources:* Implement Biological Resource Protection Measures During Operations for Parcels A, B, and C
- *Biological Resources:* Wildlife Surveys for Parcels A, B, and C
- *Biological Resources:* Berm Breach Site Pre- and Post-Construction Eelgrass Surveys
- *Biological Resources:* Compensatory Mitigation for Impacts on Special Status Biological Resources
- *Cultural Resources:* Preparation of a Cultural Resource Mitigation and Management Plan
- *Cultural Resources:* Documentation of Pond 20 to Historic American Landscape Survey Standards and Development of Educational Display
- *Cultural Resources:* Inadvertent Discovery of Human Remains
- *Geology and Soils:* Paleontological Monitoring in Areas of Sensitivity
- *Greenhouse Gas Emissions:* Greenhouse Gas Emission Reducing Design
- *Greenhouse Gas Emissions:* Electric Heating and Zero Net Energy Building
- *Hazards and Hazardous Materials:* Prepare and Implement a Soil Management Plan
- *Hazards and Hazardous Materials:* Prepare and Implement a Site Worker Health and Safety Plan
- *Hydrology and Water Quality:* Bridge and Channel Scour Monitoring and Maintenance
- *Noise:* Employ Noise Reducing Measures During Construction
- *Transportation:* Implement Transportation Demand Management Measures
- *Tribal Cultural Resources:* Native American Monitoring

All mitigation measures have been prepared in compliance with CEQA Guidelines Section 15097. The MMRP identifies the required mitigation measures, the party responsible for carrying them out, and a monitoring and reporting mechanism. Compliance with the MMRP contained in the Final EIR will be included as a condition of the future CDP for the Project.

Findings of Fact and Statement of Overriding Considerations

CEQA requires the Board to adopt written findings of fact for all significant project impacts identified in the Final EIR (CEQA Guidelines Section 15091) including impacts that are considered less than significant after mitigation and impacts that are considered significant and unavoidable. Because the direct impacts on GHG emissions, noise, and transportation were found to be significant even after the adoption of all feasible mitigation measures, the Board must adopt findings regarding the feasibility of any alternatives that could avoid or substantially reduce the significant and unmitigable impacts. The significant and unavoidable impacts also require the Board to adopt a Statement of Overriding Considerations (SOC) (Attachment D) identifying that the District has balanced the specific environmental risks in determining whether to approve the project. Staff recommends the Board find that, pursuant to CEQA Guidelines Section 15093, the benefits of the EIR Project, including but not limited to the specific economic, legal, social, technological, and other benefits outweighs its significant adverse environmental impacts and therefore, such impacts are considered acceptable.

Copies of the Final EIR, Findings of Fact and Statement of Overriding Considerations, and MMRP have been provided to the Board.

Port Master Plan Amendment

The PMP provides the official planning policies, consistent with a general statewide purpose, for the physical development of the tidelands and submerged lands conveyed and granted in trust to the District.

The Bank Parcel is not currently in the PMP, and therefore, does not currently have a land use designation. A PMPA is proposed to Planning District 9: South Bay Salt Lands to incorporate the creation of the mitigation bank, as well as assign a land use designation of “wetlands” to the Bank Parcel. If adopted by the Board and certified by the CCC, the PMPA would allow the District to issue a non-appealable CDP for the construction, establishment, and long-term maintenance of the mitigation bank. The wetlands designation is reserved for habitat, wildlife conservation, mitigation banking, and environmental protection. The Draft PMPA is included as Attachment E.

Public Hearing

A public hearing on the draft PMPA is required, pursuant to the Coastal Act, prior to Board approval. A Notice of Completion and Public Hearing for the PMPA was published Wednesday, March 10, 2021 in the *San Diego Daily Transcript* and *Coronado Eagle*, in accordance with Section 30712 of the California Coastal Act. This provides the required minimum 30-day notice to agencies and the public that the District proposes to approve a PMPA. If approved by the Board, the draft PMPA would be submitted to the Coastal Commission for processing, with an anticipated certification hearing by mid-2021.

Staff recommends the Board conduct a public hearing and adopt a resolution approving the PMPA and direct staff to file the PMPA with the California Coastal Commission for certification.

Public Engagement

Community and stakeholder outreach has been an integral part of the planning process for the Project Site. In 2012, when the District was exploring ideas for the Project Site, the District conducted numerous public outreach meetings, studies, and appraisals. The District also received and collected hundreds of comments and ideas that were submitted through a variety of formats, including Letters of Interest, the District’s website, written correspondence, and comments made at public meetings. As a continuation of that outreach, District staff and consultants have re-engaged several dozen community and stakeholder organizations to provide them updates on the Proposed Project and the benefits of wetland mitigation banking. District outreach includes planning groups, environmental and economic non-profit organizations, local and state elected officials, oversight agencies, and community members. The support received from stakeholders demonstrates an understanding of the benefits and opportunities that would be provided from a first of its kind coastal wetland mitigation bank in in San Diego Bay.

Amendments to BPC Policy No. 774, the Pond 20 Economic Development Fund

On November 17, 2015, by Resolution #2015-151, the Board adopted BPC Policy No. 774 to establish a Pond 20 EDF. Net revenue generated from the Bank Parcel and Parcels A, B, and C after construction, operational costs, expenses, and a reasonable rate of return to the District, would be directed into the Pond 20 EDF. Funds would be deposited in the EDF and evenly divided into sub-funds for projects that generate jobs or economic benefit, or create a public improvement in the City of Imperial Beach and the San Diego City Council District 8, which are consistent with the Port Act and also accomplish economic development and public improvement. It should be noted that some mitigation credits may be used directly by the District, as opposed to being sold, and would not generate revenue under the Pond 20 EDF.

A portion of Parcel B was under a long-term lease when the District acquired the property. Since the approval of BPC Policy No. 774, the lease has ended, and the site is currently vacant. Therefore, if the Board certifies the Final EIR, the Board may choose to approve minor revisions to BPC Policy No. 774 which would incorporate proceeds from future development on Parcel B into the EDF. Additionally, the proposed revisions to BPC Policy No. 774 include updated acreages based on surveys conducted during the EIR process, and minor revisions to clarify the potential use of Parcels A, B, and C, which are for revenue generating uses, to the extent feasible. A copy of the draft redline version of the revised policy is attached (Attachment F).

Next Steps

If the Board certifies the Final EIR, adopts the MMRP, Findings of Fact and SOC, a Notice of Determination will be filed with the County of San Diego Clerk and State Clearinghouse. Furthermore, if the Board approves the PMPA, staff will transmit the PMPA application to the CCC for certification. Once the CCC deems the District's PMPA application complete, the PMPA will be scheduled for CCC consideration of certification within 90 days. Upon certification of the PMPA by the CCC, District staff will return to the Board for consideration of adoption of the CCC-certified PMPA. At that time, staff will also request the Board consider authorizing issuance of a non-appealable CDP for the Project (conditioned upon final action of the PMPA by the CCC). If the Board adopts the PMPA as certified by the CCC, District staff will transmit the Board-adopted PMPA back to the CCC for final action. After the CCC's final action on the PMPA, District staff will issue the CDP. Additionally, staff anticipates returning to the Board for approval of the BEI in late 2021.

In addition, because staff recommends the Board only approve the mitigation bank portion of the PMPA at this time, Parcels A, B, and C would not be incorporated into the PMP and would remain outside of the District's CDP authority until such time that specific uses/development are proposed and a subsequent PMPA is processed. As such, to utilize Parcel B for construction staging, as is proposed by the Project, the District would need to apply for a CDP from the California Coastal Commission.

Staff Recommendation

Staff recommends that the Board conduct a public hearing and adopt a resolution to certify the Final

EIR, adopt the Findings of Fact and SOC, and direct filing of the Notice of Determination with the County Clerk and State Clearinghouse.

Staff further recommends that the Board conduct a public hearing and adopt a resolution to approve the PMPA.

Staff also recommends the Board adopt a resolution to approve revisions to BPC Policy No. 774, the Pond 20 EDF.

General Counsel's Comments:

The General Counsel's Office has reviewed the agenda sheet and attachments, as presented to it, and approves them as to form and legality.

Environmental Review:

The proposed Board actions complete the CEQA process for the Project.

The proposed Board action complies with Section 87 of the Port Act, which allows for the establishment and maintenance of those lands for open space, ecological preservation, and habitat restoration. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the Project is consistent with the Public Trust Doctrine.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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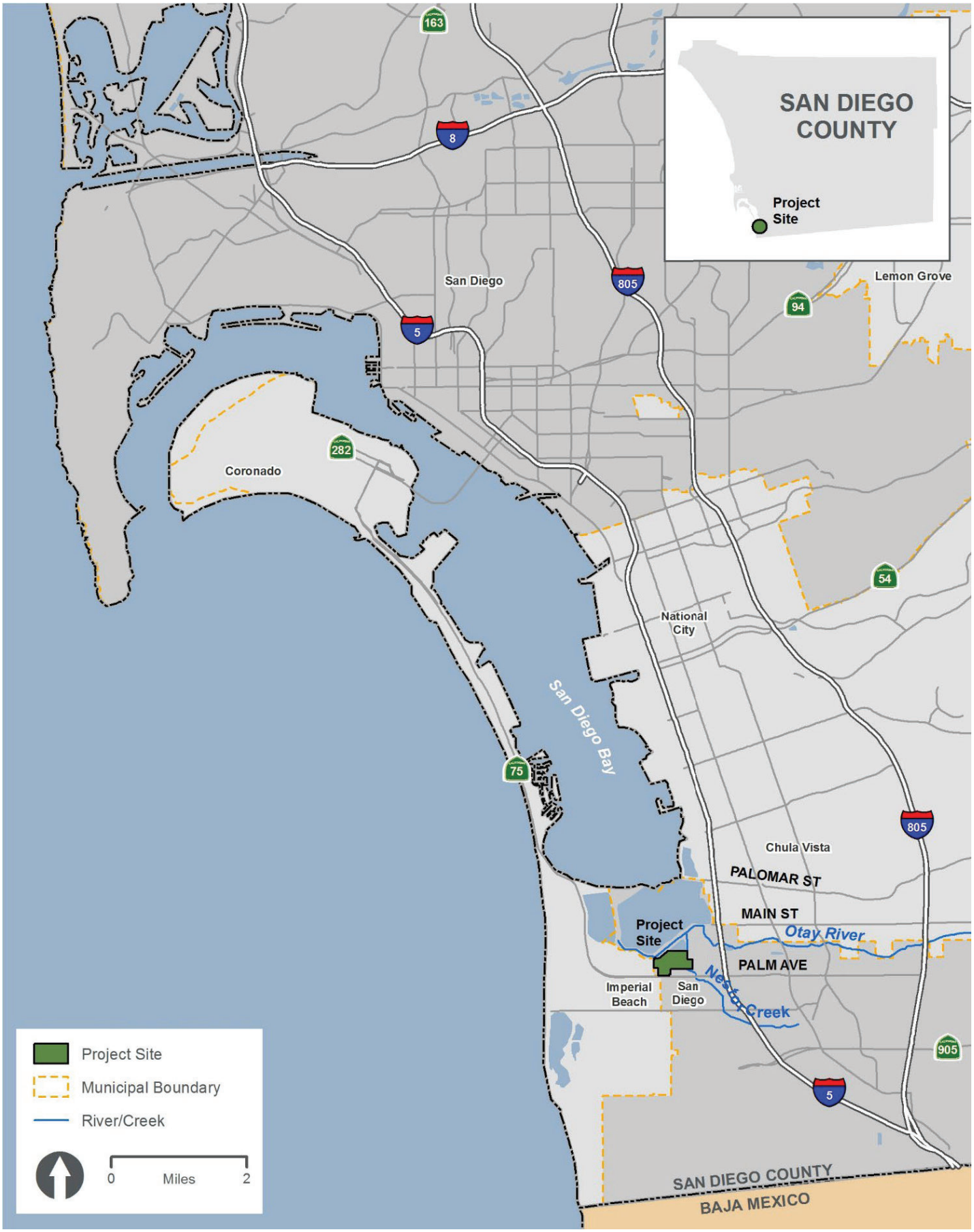
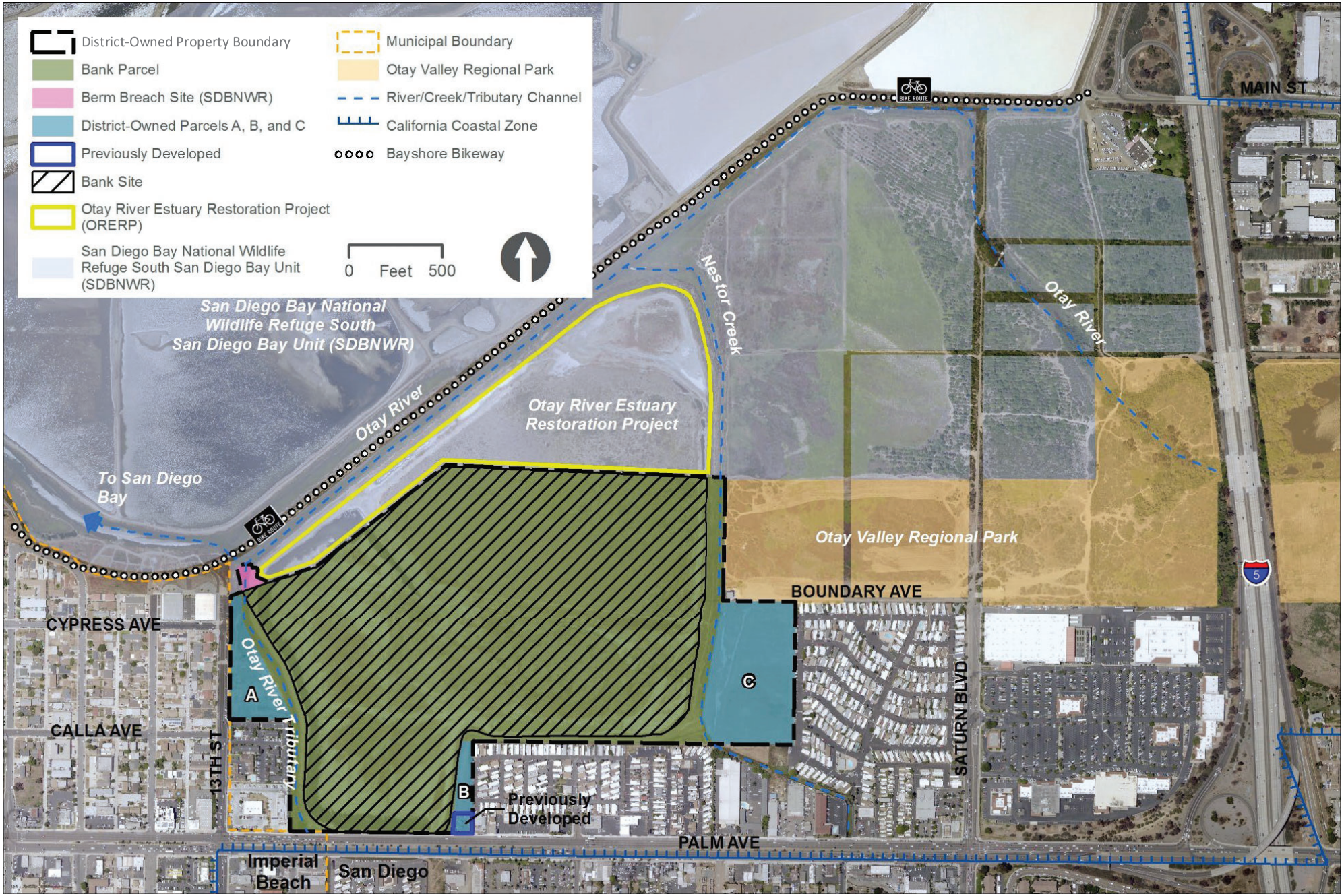
Attachments:
Attachment A: Project Location Map
Attachment B: Project Site Characteristics
Attachment C: Mitigation Monitoring and Reporting Program
Attachment D: Findings of Fact and Statement of Overriding Considerations
Attachment E: Draft Port Master Plan Amendment
Attachment F: Revisions to BPC No. 774, Pond 20 Economic Development Fund
Due to size, the Final EIR can be accessed on the District's website at:
<https://www.portofsandiego.org/environment/environmental-downloads/land-use-planning.html>

Project Location Map



Project Site Characteristics



Mitigation Monitoring and Reporting Program

Section 21081.6 of the Public Resources Code requires a lead agency to adopt a "reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment" (Section 15097 of the California Environmental Quality Act (CEQA) Guidelines provides additional direction on mitigation monitoring or reporting). As lead agency for the proposed project, the San Diego Unified Port District (District) is responsible for administering and implementing the Mitigation Monitoring and Reporting Program (MMRP). The decision makers must define specific monitoring requirements to be enforced during project implementation prior to final approval of the proposed project. The primary purpose of the MMRP is to ensure that the mitigation measures identified in the Draft and Final Environmental Impact Report (EIR) are implemented, effectively minimizing the identified environmental effects.

Table 1 has been prepared to ensure compliance with all the mitigation measures identified in the Draft EIR and this Final EIR which would lessen or avoid potentially significant adverse environmental impacts resulting from the implementation of the proposed project. Each mitigation measure is identified in Table 1 and is categorized by topic and corresponding number, with identification of:

- Action Required – The criteria that would determine when the measure has been accomplished and/or the monitoring actions to be undertaken to ensure the measure has been implemented.
- Responsible Party – The entity accountable for implementing the action/deliverable.
- Timing for Mitigation Measure – The timing for implementation of the mitigation measure.
- Implementation Phase – The phase of the project when implementation would occur.
- Compliance Verification – The monitor verifies completion of the particular mitigation measure by initialing and dating this column. Conclusion of the monitoring program concludes when all required signatures are obtained in the compliance verification column.

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Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Aesthetics						
MM AES-1 Reduced Glare Building Materials. The commercial development project proponent shall incorporate non-reflective or reduced glare building materials in the design of any structures proposed for development on Parcels A, B, and C consistent with applicable municipal codes. Any glass incorporated into the design shall either be low reflectivity or accompanied by a non-glare coating. Prior to building permits being issued for construction, the District shall confirm reduced glare building materials are included on the appropriate building plans.	Incorporate non-reflective or reduced glare building materials into the design.	Project proponent	Prior to construction	Program Level		
	Verify non-reflective or reduced glare building materials have been incorporated into the building plans.	District				
MM AES-2 Shield or Downcast Nighttime Lighting. The commercial development project proponent shall ensure that all nighttime lighting, either for nighttime construction or security lighting, shall be shielded downward to avoid any light spillover off site and lighting shall be limited to an amount required for safety of construction personnel and security of construction equipment.	Incorporate lighting requirements into applicable construction documents.	Project proponent	Prior to construction	Program Level		
	Verify nighttime lighting is shielded or downcast.	District	During construction			
Biological Resources						
MM BR-1 Implement Biological Resource Protection Measures During Construction. The District (or project proponent) shall implement the following BMPs during construction to minimize direct and indirect impacts on special status species and their habitats.	Identify Project Biologist	District or project proponent	Prior to construction	Project Level and Program Level		
	Identify, fence, and monitor SHAs	Project biologist	Prior to construction and during construction			
	Prepare and conduct WEAP training	Project biologist	Prior to construction prepare WEAP			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
a) Prior to the commencement of construction, the District (or project proponent) shall designate a Project Biologist (a person with, at minimum, a bachelor's degree in biology, ecology, or environmental studies with familiarity with federally and/or state listed plant and wildlife species and other, nonlisted special status plant and wildlife species with the potential to be impacted by the project) who shall be responsible for overseeing compliance with the protective measures for biological resources identified herein during vegetation clearing and work activities within and abutting areas of native habitat. The Project Biologist shall be familiar with the local habitats, plants, and wildlife, and shall maintain communications with the contractor to ensure that issues relating to biological resources are appropriately managed. The Project Biologist may designate qualified biologists or biological monitors to help oversee project compliance or conduct the preconstruction surveys for special status species identified in MM BR-2, MM BR-4, and MM BR-8. These biologists shall have familiarity with the			training and during construction conduct WEAP training for all personnel onsite			
	Conduct preconstruction bird nesting surveys	Project biologist	If vegetation removal or initial ground disturbance occur during nesting bird season (February 1 to September 15)			
	• Ensure construction and construction equipment staging is limited to designated areas • Install wildlife-proof containers for garbage disposal • Use water to suppress fugitive dust • If maintenance is required onsite, conduct maintenance with proper BMPs • Implement a 15 mile per hour speed limit onsite • Ensure personnel do not bring pets onsite	Contractor	Daily during construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
species for which they would be conducting preconstruction surveys or monitoring construction activities. b) The Project Biologist or designated qualified biologist shall review final plans, designate areas not proposed for disturbance that need temporary fencing per subsection (h) below (e.g., SHA fencing), and monitor construction activities within and adjacent to areas with native vegetation communities or special status plant and wildlife species. The qualified biologist shall monitor activities during critical times such as vegetation removal, initial ground-disturbing activities, and the installation of BMPs and fencing to protect native species, and shall ensure that all wildlife and regulatory agency permit requirements, conservation measures, and general avoidance and minimization measures are properly implemented and followed. The qualified biologist shall monitor the SHA fencing and shall provide corrective measures to the contractor to ensure that the fencing is maintained throughout construction. The qualified biologist shall have the authority to stop work and redirect work if a special status wildlife species	• Ensure no plastic monofilament netting is used onsite • Implement the District's Integrated Pest Management Plan • Store hazardous materials and equipment within secondary containment overnight • Ensure vehicle refueling is conducted in upland areas and fuel containers are secured • Inspect vehicles and equipment for leaks					
	• Install wildlife escape ramps • Cover pipes, equipment, or other structures that could be used as a den	Contractor	At the end of each day during construction			
	Monitor to ensure construction and construction equipment staging is limited to designated	Project biologist	Daily during construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
is encountered within the project area during construction until the Project Biologist or qualified biologist determine(s) that the animal would not be harmed (i.e., no ground disturbing activities are proposed within 100 feet) or it has left the construction area on its own. Also see subsection (e) below. c) Prior to the start of construction, all project personnel and contractors who would be on site during construction shall complete mandatory training conducted by the Project Biologist or a designated qualified biologist. Any new project personnel or contractors that come on board after the initiation of construction shall also be required to complete the mandatory WEAP training prepared and conducted by the Project Biologist before they commence with work. The training shall advise workers of potential impacts on sensitive habitat and federally and/or state listed and other special status species and the potential penalties for impacts on such habitat and species. At a minimum, the training shall include the following topics: (1) occurrences of the special status species and sensitive vegetation communities in the project area (including vegetation communities	areas, wildlife-proof containers are used for garbage disposal, wildlife escape ramps installed, pipes or den-like structures are not inhabited, use of water to suppress fugitive dust, maintenance of equipment is conducted with proper BMPs, vehicles do not exceed 15 miles per hour onsite, no pets have been brought onsite, no plastic monofilament netting is used onsite, pest and weed management implemented, hazardous materials and equipment stored overnight is within secondary containment, vehicle refueling is conducted in upland areas and fuel containers are secured, inspect equipment and containers for leaks					

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
subject to ACOE, CDFW, and RWQCB jurisdiction), (2) protective measures to be implemented in the field, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced areas to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); (3) the protocol to resolve conflicts that may arise at any time during the construction process; and (4) reporting requirements and procedures to follow should a federally and/or state listed species be encountered during construction. d) The training program shall include color photos of federally and/or state listed species, other special status species, and sensitive vegetation communities. Following the education program, the photos shall be posted in the contractor and resident engineer's office where the photos shall remain throughout the duration of project construction. Photos of the habitat in which sensitive species are found shall be posted onsite. The contractor shall be required to provide the District with evidence of the employee training (e.g., a sign-in sheet) on request.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Project personnel and contractors shall be instructed to immediately notify the Project Biologist or designated biologist of any incidents that could affect sensitive vegetation communities or special status species. Incidents could include fuel leaks or injury to any wildlife. The Project Biologist shall notify the District of any incident within 24 hours of being noticed. e) Vegetation removal and initial ground disturbance shall occur outside of the bird nesting season (February 1 – September 15) if feasible. Should vegetation removal or initial ground disturbance be required during the bird nesting season, the Project Biologist must conduct a preconstruction nesting survey. Should active nests be present, a construction avoidance buffer of 300 feet is required until the young have fledged or the nest has failed naturally. The biologist may reduce the buffer if, in their professional judgment, topography or other factors mitigate potential impacts from construction vibration, noise, dust, and visual intrusion. For federally and state listed species, see MM BR-4.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
f) The Project Biologist shall have the authority to halt work, and redirect work if necessary to ensure the proper implementation of species and habitat protection. The Project Biologist shall report any noncompliance issues to the District within 24 hours of its occurrence. g) The Project Biologist shall monitor the project site immediately prior to and during construction to identify the presence of invasive weeds and shall recommend measures to avoid their inadvertent spread in association with the project. All construction equipment shall be washed and cleaned of debris prior to entering the construction site to minimize the spread of invasive weeds. h) All habitat regulated by CCC, ACOE, RWQCB, USFWS, NMFS, and/or CDFW, and habitat with potential to support special status species outside of, and abutting the designated project limits of disturbance shall be designated as SHAs on project maps. Prior to construction, the Contractor shall delineate the project limits, including construction, staging, lay-down, and equipment storage areas, and erect the construction boundary,						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
with fencing or flagging, along the perimeter of the identified construction area to protect adjacent sensitive habitats and sensitive-plant populations. SHAs shall be clearly delineated with fencing or flagging or other BMPs prior to construction to inform construction personnel where the SHAs are located and shall be confirmed by the Project Biologist or designated biologist prior to construction. SHAs fencing may include orange plastic snow fence, orange silt fencing, or stakes and flagging in areas of flowing water. No personnel, equipment, or debris shall be allowed within the SHAs. Fences and flagging shall be installed by Contractor in a manner that does not impact habitats to be avoided and such that it is clearly visible to personnel on foot and operating heavy equipment. 10 days prior to initiating construction, the Contractor shall submit to the District final plans for initial clearing and grubbing project construction. These final plans shall include photographs that show the fenced and flagged ESHA limits and all areas to be impacted or avoided. If work occurs beyond the fenced or demarcated limits of impact, all work shall cease until the problem has been remedied.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Temporary construction fences and markers shall be maintained in good repair by the Contractor during construction and shall be removed upon completion of project construction. i) No work activities, materials or equipment storage, or access shall be permitted outside the project limits without permission from the District. All parking and equipment storage by the contractor related to the project shall be confined to the project limits. Contractor shall not conduct work in undisturbed areas and sensitive habitat outside and adjacent to the project limits shall not be used for parking or equipment storage. Project-related vehicle traffic shall be restricted to the project limits and established roads and construction access points. j) Construction activities shall be limited to daylight hours to the extent feasible. If nighttime activities are unavoidable, then workers shall direct all lights for nighttime lighting into the work area and shall minimize the lighting of natural habitat areas adjacent to the work area. The contractor shall use light glare shields to reduce the extent of illumination into sensitive habitats. If the work area is located near surface						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
waters, the lighting shall be shielded such that it does not shine directly into the water. k) Clearing shall be confined to the minimal area necessary to facilitate construction activities. Cleared vegetation and spoils shall be disposed of daily at a permanent offsite spoils location or at a temporary onsite location that would not create habitat for special status wildlife species. Spoils and dredged material shall be disposed of at an approved site or facility in accordance with all applicable federal, state, and local regulations. l) Food-related and other garbage shall be disposed of in wildlife-proof containers and shall be removed from the project area daily during the construction period. Vehicles carrying trash or hauling dirt/sediment shall be required to have loads covered and secured to prevent dirt, trash, and debris from falling onto roads and adjacent properties. m) All construction equipment used for the project shall be maintained in accordance with manufacturer's recommendations, and requirements and shall be maintained to comply with						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
noise standards (e.g., exhaust mufflers, acoustically attenuating shields, shrouds, or enclosures). n) The Contractor shall store all construction-related vehicles and equipment in the designated staging areas. o) The Contractor shall avoid wildlife entrapment by completely covering or providing escape ramps for all excavated steep-walled holes or trenches more than 1 foot deep at the end of each construction workday. The qualified biologist shall inspect open trenches and holes and shall remove or release any trapped wildlife found in the trenches or holes prior to filling by the construction contractor p) Special status wildlife can be attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar features; construction equipment; or construction debris left overnight in areas that may be occupied by special status species that could occupy such structures shall be inspected by a qualified biologist prior to being used for construction. Such inspections shall occur at the beginning of each day's						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
activities for those materials to be used or moved that day. If necessary, and under the direct supervision of the biologist, the structure may be moved up to one time to isolate it from construction activities, until the special status species has moved from the structure of their own volition or has been captured and relocated. q) The spread of dust from work sites to sensitive natural communities or sensitive-species habitats on adjacent lands shall be minimized by use of a water truck. Dirt access roads, haul roads, and spoils areas shall be watered to prevent the spread of dust. Follow SWPPP to reduce dust emissions. r) The Contractor shall strictly limit their activities, vehicles, equipment, and construction materials to established roads and the project disturbance limits. Signs shall be posted within the staging area, non-paved access routes, and project site with a maximum 15 mile per hour speed limit. s) To prevent harassment, injury, or mortality of sensitive wildlife by dogs or cats, no canine or feline pets shall be permitted in the active construction area.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
t) Plastic monofilament netting or similar material shall not be used for erosion control because smaller wildlife may become entangled or trapped in it. Acceptable substitutes include coconut coir matting or tackifier hydroseeding compounds. This limitation shall be communicated to the contractor through specifications or special provisions included in the construction bid solicitation package. u) Pest and weed management shall be conducted in compliance with the District's Integrated Pest Management Plan. v) Hazardous materials and equipment stored overnight, including small amounts of fuel to refuel hand-held equipment, shall be stored within secondary containment per the SWPPP. w) The Contractor shall be required to conduct vehicle refueling in upland areas where fuel cannot enter WOUS or WOS and in areas that do not have potential to support sensitive habitat or federally and/or state listed species. Any fuel containers, repair materials including creosote-treated wood, and/or stockpiled material that is left onsite overnight shall be secured in						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
secondary containment within the work area and staging/assembly area, and covered with plastic at the end of each workday. x) In the event that no activity is to occur in the work area for the weekend and/or a period of time greater than 48 hours, the Contractor shall ensure that all portable fuel containers are securely locked and/or removed from the project site. y) Equipment and containers shall be inspected daily for leaks. Should a leak occur, contaminated soils and surfaces shall be cleaned up and disposed of following the guidelines identified in the SWPPP, Materials Safety Data Sheets, and any specifications required by other permits issued for the project. z) The Contractor shall utilize off-site maintenance and repair shops as much as possible for maintenance and repair of equipment. aa) If maintenance of equipment must occur onsite, fuel/oil pans, absorbent pads, or appropriate containment shall be used to capture spills/leaks within all areas. Where feasible, maintenance of equipment shall occur in upland						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
areas where fuel cannot enter WOUS or WOS and ESHAs.						
MM BR-2 Preconstruction Rare Plant Surveys. Protocol rare plant surveys shall be conducted to locate special status plant species onsite prior to the start of construction. Should a significant population (>3 individuals) of the target species (estuary seablite, Pacific saltbush, Coulter's goldfields, Nuttall's acmispon, beach goldenaster, aphanisma, beach goldenaster, and Lewis' evening primrose) be identified, the District (or project proponent) shall collect seed from those individuals present within the impact areas and broadcast 50-percent of the seed in the appropriate restoration areas following soil preparation as supervised by a qualified Lead Biologist (Lead Biologist Minimum Qualifications: Bachelor's degree in Biology [or equivalent, such as a degree in Natural Resources] and a minimum of 5 years of restoration experience or equivalent, such as restoration certification and at least 12 semester units of botany course work or 100 hours of independent study with CNPS or other local botanical society, or 5+ years of seed collection and propagation experience with the target genera). Seeding shall be considered successful if the target species is observed at least twice over a 5-year period. Fifty-percent of the collected seed shall be stored by a reputable seed bank. Should the seeded areas not meet the performance criteria defined above, the District shall identify an appropriate off-site	Identify Lead Biologist	District of project proponent	Prior to construction	Project Level and Program Level		
	Conduct preconstruction rare plant surveys	Biologist	Prior to construction			
	Collect and broadcast seeds from target species	Biologist and District or project proponent	If target species are identified onsite, then seed collection would occur prior to construction and seed broadcast would occur during planting phase of construction			
	Monitor seeding for success	Biologist and District or project proponent	If target species are identified onsite and seeds are broadcast onsite, then monitoring would occur at least twice a year for five years post construction			
	Identify appropriate off-site location and prepare a germination and habitat suitability study	Biologist and District or project proponent	If seeded areas do not meet performance criteria, then an off-site location would be identified and a germination and habitat suitability study prepared.			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
location to implement a germination and habitat suitability study. The study would review existing available literature and include methodology to test abiotic factors essential for growth of the target species, including, but not limited to, soil pH, permeability, slope, sun exposure, and rain fall frequency, duration, and distribution patterns. Metrics would include germination rates, survival rates, and productivity based upon seed or fruit set. Should salt marsh bird's beak, a federally and state endangered species, be observed during preconstruction surveys and subject to direct impacts, a CDFW Section 2081 Incidental Take Permit is required. Compensatory mitigation for net loss of suitable habitat at a minimum of 1:1 establishment, enhancement or preservation and long-term management shall be required.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
MM BR-3 Restoration of Temporary Impacts. To avoid or minimize the permanent loss or degradation of sensitive or special status habitat resulting from temporary project features, any areas that are temporarily disturbed shall be restored to preconstruction conditions and vegetated with appropriate native plant species once construction is complete. This includes potential impacts to seablite scrub, pickleweed mats, salt pan, and open water that are subject to regulation by CCC, ACOE, and RWQCB and may be subject to regulation by CDFW, as well as habitat with potential to support special status biological resources. To avoid or minimize any long-term impacts on habitat or vegetation, staging areas, access routes, and other temporarily disturbed areas shall be decompacted and recontoured to ensure proper site drainage and revegetated with appropriate native species at a 1:1 ratio. Any temporary equipment, structures, or utilities (e.g., water, power) installed at the project site shall be removed at the completion of construction. Any temporary disturbance lasting longer than 12 months shall be mitigated as detailed MM BR-10.	Identify sensitive habitat that would be temporarily impacted	Biologist	Prior to construction	Project Level and Program Level		
	Restore temporarily disturbed areas	District or project proponent	Immediately after construction			
MM BR-4 Preconstruction Surveys for Federally and State Listed Avian Species. Initial clearing, ground disturbance, and other construction activities shall occur outside of the nesting bird season (i.e. outside of February 1 – September 15) to the maximum extent	Perform a minimum of three focused surveys for target species	Biologist	Prior to construction during nesting bird season (February 1 – September 15)	Project Level and Program Level		
	Install 500-foot buffer around active nest and notify District	Biologist	During construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
feasible. Should construction activities need to occur during the nesting bird season, prior to initiation of construction, a District-approved biologist shall: a) Perform a minimum of three focused surveys, on separate days, to determine the presence of Ridgway's rail (light-footed), western snowy plover, coastal California gnatcatcher, California least tern, or Belding's savannah sparrow nest building activities, egg incubation activities, or brood rearing activities within 500 feet of project construction proposed during the nesting season that could impact these species. The surveys shall begin a maximum of 7 days prior to project construction and one survey shall be conducted the day immediately prior to the initiation of work. Additional surveys shall be done once a week during project construction in the nesting season. These additional surveys may be suspended once fledglings have left the nest or if noise at the edge of nesting habitat is less than 60 dBA Leq where the berm occurs between construction and nesting activities. b) If an active Ridgway's rail (light-footed), western snowy plover, coastal California gnatcatcher, California least	Perform preconstruction surveys for federally and state listed avian species	Biologist	Prior to construction outside of nesting bird season (September 16 – January 31)			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
tern or Belding's savannah sparrow nest is found within a minimum of 500 feet of project construction, the Biological Monitor shall report the nest(s) to the District. After initial identification of the nest, the biological monitor shall not approach within 25 feet of an active nest; nest monitoring shall occur with binoculars. Signage and SHA fencing shall be installed to deter people from entering any area with an active nest. Work within 500 feet of the active nest shall be halted. With USFWS (Ridgway's rail [light-footed], coastal California gnatcatcher, California least tern or western snowy plover) or CDFW (Belding's savannah sparrow) approval, the buffer may be reduced to less than 500 feet based on species sensitivity, topography, noise/duration of construction activities, etc., to protect active nests. The District shall develop an Avoidance and Minimization Plan, including determining whether the existing berm provides adequate protection for the nest to reduce or eliminate the buffer and measures to minimize construction noise at the nest site if not (such as, installation of noise barriers and/or modification in quantity, location or type of equipment), a monitoring plan, and an adaptive						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
management strategy and/or contingency options. c) Pre-construction surveys will also be conducted for federally and state listed species when suitable habitat is proposed for removal outside of the breeding season. Should federally and state listed avian species be detected, vegetation removal shall be postponed until the species has left the work area, unless the necessary Incidental Take Permits have been issued. In the latter case, clearing would progress in compliance with all required Conservations Measures and Terms and Conditions.						
MM BR-5 Preconstruction Surveys for Burrowing Owl. A preconstruction survey shall be conducted by a qualified biologist in accordance with the survey requirements detailed in the California Department of Fish and Game's March 7, 2012, Staff Report on Burrowing Owl no less than 14 days before initial ground-disturbing activities (California Department of Fish and Game 2012). Any active burrow found during preconstruction survey efforts shall be mapped and provided to the construction foreman. If no active burrows are found, no further mitigation shall be required. A construction avoidance buffer shall be placed around occupied burrows.	Conduct preconstruction surveys for burrowing owl	Biologist	Prior to construction	Project Level and Program Level		
	Install appropriate buffer	Biologist	During construction			
	Prepare Burrow Exclusion Plan	Biologist	If avoidance is not possible, then the biologist would prepare the Burrow Exclusion Plan prior to disturbance.			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Recommended buffer distances are based on time of year and level of disturbance: • April 1 – August 15: Low disturbance 656 feet, medium and high disturbance 1,640 feet • August 16 – October 15: Low and medium disturbance 656 feet, high disturbance 1,640 feet • October 16 – March 31: Low disturbance 164 feet, medium disturbance 328 feet, high disturbance 1,640 feet If avoidance of impacts on occupied burrows is not practicable, the District shall create a Burrow Exclusion Plan that would be approved by CDFW. The plan shall follow Appendix E of the 2012 CDFW Burrowing Owl Mitigation Staff Report. Relocation shall be implemented only during the nonbreeding season by a qualified biologist. Owls shall be excluded from burrows in the immediate impact zone by installing one-way doors in burrow entrances. One-way doors shall be left in place for 48 hours to ensure owls have left the burrow before excavation.						
MM BR-6 Implement Long-Term Operations Maintenance and Management Plan. A Long-Term Management Operations and Maintenance Plan shall be prepared and implemented. The plan shall address maintenance activities, associated minimization measures, monitoring requirements and adaptive management strategies to be	Prepare a Long-Term Management Operations and Maintenance Plan	District	Prior to completion of construction	Project Level		
	Implement Long-Term Management Operations and Maintenance Plan	District	Post construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
implemented after the site has met its 5th year performance criteria and been accepted by the agencies. The Long Term Operations and Maintenance Management Plan shall include measures to minimize the potential introduction of invasive species during maintenance activities including, but not limited to: washing all equipment prior to entering the site from another location, removing invasive species before seeding to the maximum extent feasible, collecting all plant material removed during maintenance securely, such as in a burlap bag, and removing from the site. The plan shall prohibit the use of pesticides or herbicides with potential toxicity to aquatic or terrestrial wildlife species. Maintenance and trash/debris removal shall be conducted outside of the bird nesting season (February 1 – September 15) to the maximum extent feasible. If maintenance must occur during the nesting season, a qualified biologist shall conduct preconstruction nesting bird surveys and direct maintenance staff to areas not occupied by nesting birds. The plan shall include contingency erosion control BMPs should they be needed following especially large storms. Should supplemental planting be required, all container stock shall be certified pest free and inspected for pests prior to being unloaded on site. At a minimum, the plan shall include biannual inspections for invasive species cover, fence inspection, vandalism, and illegal dumping. The plan shall include long-term performance criteria to include, at a minimum, no perennial invasive species						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
(ranked by California Invasive Plant Council as moderate to high) and less than 5 percent annual invasive species relative cover. An assessment of habitat function shall be conducted every 10 years. At a minimum, the assessment shall include a wildlife use assessment and an assessment of non-native vegetative cover. The Final Monitoring Report upon which all signatory agencies accept the mitigation site as complete shall serve as the baseline conditions for long-term monitoring. Contingency measures such as supplemental weeding, planting, grading, and erosion control shall be included in the plan. A threshold for implementing contingency measures, such as assessment results with no more than -10 percent deviation from baseline shall be included.						
MM BR-7 Implement Biological Resource Protection Measures During Operations for Parcels A, B, and C. To avoid or minimize potential operations impacts on biological resources resulting from development of Parcels A, B, and C, the following measures shall be implemented as applicable based on project-specific designs: a) Landscape plans shall not include the use of plant species considered invasive by California Invasive Plant Council. All plant species specified in the landscape plans shall be certified	Include biological resource protection measures in project design	Project proponent	Prior to construction	Program Level		
	Verify biological resource protection measures are included in the design and implemented	District	Prior to construction and post construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
free of pests, including plant pathogens. b) Light glare shields shall be included in the project design to reduce the extent of illumination into sensitive habitats. If lighting is located near surface waters, it shall be shielded such that it does not shine directly into the water. c) Masonry block walls or equivalent shall be erected around the perimeter of the project area to prevent domestic pets or other animals that could harm biological resources in adjacent habitats. d) The commercial development project proponent shall ensure operation noise levels are kept below 60 dBA Leq at the margin of the nearest occupied breeding habitat for state or federally listed species. e) The commercial development project proponent shall design the project such than no stormwater runoff shall enter adjacent native habitat areas. All stormwater runoff shall be channeled into storm drains.						
MM BR-8 Wildlife Surveys for Parcels A, B, and C. The District (or project proponent) shall conduct nesting season (February 1 – September 15) surveys on Parcel A for Belding's savannah sparrow, Ridgway's rail	Conduct nesting season surveys on Parcels A, B, and C	District or project proponent biologist	Prior to construction	Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
(light-footed), western snowy plover, California least tern, and burrowing owl; on Parcel B for Belding's savannah sparrow, Ridgway's rail light-footed, and burrowing owl; and on Parcel C for burrowing owl prior to project initiation. If no special status wildlife species are present, no further mitigation shall be required. Should occupied Belding's savannah sparrow, Ridgway's rail, western snowy plover, or California least tern habitat be proposed for permanent impact, the District shall provide compensatory mitigation as detailed in MM BR-10. See MM BR-5 for details regarding burrowing owl monitoring and mitigation.						
MM BR-9 Berm Breach Site – Pre- and Post-Construction Eelgrass Surveys. Eelgrass (*Zostera* spp.) surveys, consistent with the requirements outlined in the 2014 California Eelgrass Mitigation Policy, shall be conducted to detect any impacts on eelgrass as a result of breaching the berm to open the Bank Site to tidal influence. Surveys shall be conducted prior to breaching the berm. If the pre-construction survey shows no eelgrass is present, no post construction survey and no further surveys or mitigation shall be required. If eelgrass is present a post-construction survey shall be conducted within 30 days following completion of breach construction. If impacts on eelgrass from implementation of the proposed project are identified, mitigation for eelgrass impacts shall be at a ratio of no less than 1.2:1, as required by	Conduct preconstruction eelgrass survey	District biologist	Prior to construction	Project Level		
	Conduct postconstruction eelgrass surveys and mitigate if required	District biologist	Post construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
the California Eelgrass Mitigation Policy. Mitigation shall commence within 135 days of any noted impacts on eelgrass, such that mitigation commences within the same eelgrass growing season that impacts occur if feasible.						
MM BR-10 Compensatory Mitigation for Impacts on Special Status Biological Resources. a) Should the project result in a loss of WOUS, CCC wetland, or CDFW regulated streambed, the District shall provide compensatory mitigation for the loss of regulated waters or streambed at a minimum 1:1 ratio. Compensatory mitigation shall consist of establishment to ensure no loss of aquatic function. The compensatory mitigation ratios provided herein for direct impacts on regulated aquatic resources represent the minimum required to ensure no net loss of aquatic function following project implementation. Final compensatory mitigation programs will be determined in consultation with USACE, RWQCB, CCC and/or CDFW during their respective permitting processes. b) Should the project result in a loss of Menzie's goldenbush scrub, or suitable habitat for Belding's savannah sparrow, Ridgway's rail (light-footed), California gnatcatcher, western snowy plover or California least tern, the District shall provide establishment	Identify amount of WOUS, CCC wetland, CDFW-regulated streambed, or occupied state or federally listed species habitat and coordinate with appropriate agency to determine compensatory mitigation.	District or project proponent	Prior to construction	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
within the Bank Site at a minimum 1:1 mitigation ratio to ensure no net loss of Menzie's goldenbush scrub or habitat for these species. c) Should the Bank Site not provide sufficient habitat to provide a minimum 1:1 mitigation ratio for net loss of habitat for any of these species, the balance of the mitigation shall be provided through a combination of establishment, enhancement or preservation and long term management to provide for no net loss of habitat function. The compensatory mitigation ratios provided herein for loss of the above habitats represent the minimum required to ensure no net loss habitat following project completion. Final compensatory mitigation programs will be determined in consultation with USFWS and CDFW as applicable.						
Cultural Resources						
MM CR-1 Preparation of a Cultural Resource Mitigation and Management Plan. Prior to commencement of any ground-disturbing activities but no sooner than 90 percent design completion, the District shall contract a qualified archaeologist who is a member of the Register of Professional Archaeologists and meets the SOI's Professional Qualification Standards for Archaeology (36 CFR 61, Appendix A) to develop a CRMMP.	Prepare and implement a CRMMP	District	Prepare CRMMP prior to construction and implement during construction	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
The CRMMP shall serve to guide the identification, evaluation, and data recovery of all known and unknown archaeological historical resources in the project site. The overall performance goals of the three phases of archaeological activities to be outlined in the CRMMP are: a) ***Identification:*** Archaeological testing, guided by an explicit sampling strategy, shall be carried out to identify any intact buried archaeological deposits within the horizontal and vertical extents of project-related disturbance. b) ***Evaluation:*** Any intact buried archaeological deposits identified shall be evaluated according to specific thresholds of significance for their potential to yield scientifically consequential information. c) ***Data Recovery:*** Any deposits determined to contain scientifically consequential information shall be analyzed and documented following defined methods and objectives in order to recover and preserve the scientifically consequential information they contain. The CRMMP shall be consistent with the SOI's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716–44740), the California OHP's						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Archaeological Resource Management Reports: Recommended Contents and Format (1990), Guidelines for Archaeological Research Designs (1991), and Guidelines for the Curation of Archaeological Collections (1993), and the ACHP's Treatment of Archaeological Properties: A Handbook (1980). The CRMMP shall include, at a minimum, the following items: • ***Historic Context:*** Based on the relevant sections of the *Cultural Resource Technical Report*, the District's qualified archaeologist shall prepare a comprehensive historic context for the study area and the surrounding region. The historic context shall conform with guidance from the SOI's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44718-44719): o Identify the concept, time period, and geographical limits for the historic context o Assemble the existing information about the historic context o Synthesize information o Define property types ▪ Identify property types ▪ Characterize the locational patterns of property types ▪ Characterize the current condition of property types						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
○ Identify information needs Specific research topics for the historic context should include attempts to identify further evidence related to the association of CA-SDI-19712 with the Kumeyaay village of La Punta and the Kumeyaay revolt of 1775, as well as a synthesis of comparative regional data from coastal habitation sites dating to the San Dieguito and La Jolla periods to aid in contextualizing the prehistoric occupation of CA-SDI-4360. • ***Research Design:*** The CRMMP shall include an explicit statement of theoretical and methodological approaches to be followed in the identification, evaluation, and data recovery of archaeological resources. Following the OHP's *Archaeological Resource Management Reports: Recommended Contents and Format* (1990), appropriate research designs shall: A. Discuss the theoretical basis of the proposed research; B. Summarize previous research; C. Present testable hypotheses or state the goals of the research; and D. Identify the test implications of the hypotheses. Pursuant to the SOI's Standards for Archaeological Documentation (48 FR 44734–44737), the research design shall draw upon the historic context to identify:						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
○ Evaluated significance of the properties to be studied; ○ Research problems or other issues relevant to the significance of the property; ○ Prior research on the topic and property type; and how the proposed documentation objectives are related to previous research and existing knowledge; ○ The amount and kinds of information (data) required to address the documentation objectives and to make reliable statements including at what point information is redundant and documentation efforts have reached a point of diminishing returns; and ○ Methods to be used to find the information. Pursuant to the SOI's Standards, the research design shall explicitly identify the archaeological data classes that are required to address the specified documentation objectives. Consistent with the information needs identified in the historic context, the research design shall provide thresholds for determining the point at which further data recovery and documentation fail to improve the usefulness of the archeological information being recovered (48 FR 44735).						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
• ***Methods:*** The CRMMP shall include specific field and laboratory methodologies for the identification, evaluation, and data recovery of archaeological resources. Because all archaeological excavation is by nature destructive, field methods shall be developed once project design has reached 90 percent completion and shall be reviewed upon submittal of final design, in order to avoid unnecessary impacts on archaeological resources in areas that would not be affected by the project, per CEQA Guidelines Section 15162.4(b)(3). ○ *Identification and Evaluation:* The final grading and construction plans shall be reviewed to determine the precise horizontal and vertical extents of ground-disturbing activities. Based on this information, the District's qualified archaeologist shall develop an archaeological testing and evaluation plan with the stated objective of identifying any intact buried archaeological deposits within the project's limits of disturbance and determining their significance in accordance with the CRHR criteria (14 CCR 4852[b]). Per the SOI's Standards and Guidelines for Identification and Evaluation (48 FR 44720–44726), the testing plan should include methods appropriate for the environmental and cultural context						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
of the area under study, as well as expected results and reasons for those expectations. Identification and evaluation Methods for identification and evaluation shall include the following: ▪ Mapping and site gridding; ▪ Full-coverage site survey with point-plotting of surface artifacts; ▪ Placement of shovel test pits, auger units, test units, or mechanically excavated trenches, guided by an explicit sampling strategy, not to exceed the extents of proposed disturbance in any given location; ▪ Recording procedures for documenting the results of the excavations, including soil matrix descriptions, artifact types and classifications; ▪ Procedures for in-field recordation of artifacts and features based on type, including prescriptive standards for measurement, description, documentation of stratigraphic context, and photographic documentation; ▪ Specific methodologies and thresholds for determining the integrity of deposits and expected feature types (e.g.,						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
shell midden deposits, hearths, occupational deposits) and their potential to yield scientifically consequential data; ▪ Explicit methods for estimating the spatial extent of intact buried deposits identified based on the results of test excavations; and ▪ An artifact disposition policy, stating that only artifacts associated with features and deposits determined to be significant shall be collected for laboratory analysis. All other artifacts shall be recorded in the field and reburied in the unit where they were recovered. ○ *Data Recovery:* The CRMMP shall include a treatment plan for recovering and preserving scientifically consequential data from intact archaeological deposits identified during the testing and evaluation phase that are determined to be significant according to the criteria set forth in the research design. Following the guidelines provided in the ACHP's *Treatment of Archaeological Properties: A Handbook* (1980), the data recovery plan shall employ methods that shall ensure full, clear, and accurate descriptions of all field operations and observations. Excavation techniques, recording methods,						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
stratigraphic and associational relationships, environmental relationships, and analytical techniques shall be described, insofar as is feasible, in such a way as to allow future researchers to reconstruct what was done, what was observed, and why. To the extent feasible, the methods shall take into account the possibility that future researchers would need to use the recovered data to address problems not recognized at the time the data were recovered. Per the SOI's Standards and Guidelines for Archaeological Documentation (48 FR 44734–44737), the archaeological data recovery plan shall include an explicit statement of objectives and methods that responds to needs identified in the research design. The methods and techniques chosen for archeological documentation shall be the most effective, least destructive, most efficient, and economical means of obtaining the needed information. The data recovery plan shall include the following: • Explicit descriptive statements of and justification for field study techniques. • A discussion of expected feature types and associated techniques for excavation, recordation, and analysis.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
• Specific thresholds for determining the level of effort necessary to achieve successful data recovery, based on the estimated spatial extent of intact buried deposits identified in the previous phase. Thresholds shall be tailored to specific deposit and feature types. For instance, the recovery of consequential archaeological data from a small hearth may be considered successful upon excavation of half of the feature by volume. Larger and more complex deposits and features may require an explicit sampling strategy. In all cases, recovery thresholds shall be formulated based on the data needs identified in the research design and adequate justification shall be provided. • Recording procedures for documenting the results of the excavations, including soil matrix descriptions, artifact types and classifications. • Procedures for in-field recordation of artifacts and features based on type, including prescriptive standards for measurement, description, documentation of stratigraphic context, and photographic documentation. • Procedures for recovering samples of soil matrix for specialized analysis (e.g., pollen analysis, phytolith analysis, and flotation for macro-botanical remains and fish scales and otoliths), samples of organic materials for radiocarbon dating,						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
as well as other elemental or chemical analyses. • Laboratory procedures for the initial processing and subsequent analysis of recovered materials, based on the objectives identified in the research design. • An artifact disposition policy, providing criteria and procedures for determining the disposition of artifacts once laboratory analysis is concluded. Artifact curation and discard principles shall be organized under three considerations: research values, practicality, and education potential. Artifacts that meet the discard criteria (e.g., lack of long-term research value, poor archaeological context, poor condition, lack of education potential) shall be reburied at a specified location in the project site. All archaeological units for identification, evaluation, and data recovery shall be excavated in 10-centimeter levels. Sediments removed shall be dry-sifted through 1/8-inch mesh screens. Screening shall be conducted over plastic sheeting (tarps) to reduce environmental damage, prevent contamination of the site's surface deposit, and expedite the backfilling process. Testing data, which includes depth, soil descriptions, soil type and consistency, stratigraphy, and artifact type and material, shall be recorded on standardized forms. Unit form templates shall be included in the CRMMP.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Unit locations, features, surface finds, and other spatial data shall be controlled with reference to the Universal Transverse Mercator grid superimposed on aerial photographs rendered by a geographical information system. Data points to be mapped shall be collected with a GPS unit with submeter accuracy. Artifacts from each field excavation provenience shall be measured, photographed, and recorded on the standardized unit forms. If paleontological resources are encountered, they shall be noted and mapped, but shall not be part of the analysis unless it is clear they are associated with a cultural context. All artifacts from surface collections and excavations shall be collected, with the exception of fire-affected rock, which shall be counted, weighed, and reburied in the excavation unit. All collected artifacts shall be analyzed using the lab methods outlined in the CRMMP. Native American cultural materials shall be classified into one of 12 categories: core, debitage, flaked-stone tool, cobble/percussion tool, ground stone, ceramic, modified bone, modified shell, and miscellaneous items. Recovered ecofacts (unmodified bone and shell specimens) shall be cataloged by faunal class. Historical items shall be identified as specifically as possible, and study beyond simple identification would not be undertaken unless particular items appear to date to the ethnohistoric or Early Historic period.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
• ***Archaeological Reporting:*** The CRMMP shall set forth the requirements for reporting. All reports shall be prepared in accordance with the guidelines established by the Secretary of the Interior's Standards for Archaeological Documentation (48 FR 44734–44737) and the OHP's *Archaeological Resource Management Reports: Recommended Contents and Format* (1990) and shall be submitted to the District and the SCIC. ○ *Testing, Evaluation, and Data Recovery Reports:* Upon completion of each phase of archaeological testing evaluation, and data recovery, the District's qualified archaeologist shall document the results in a report. These documents shall summarize the testing and evaluation efforts and data recovery results by each area or feature that undergoes data recovery. ○ *Archaeological Monitoring Report:* Upon completion of grading and excavation activities, the District's qualified archaeologist shall prepare a written report detailing monitoring activities performed at archaeological sites CA-SDI-4360 and CA-SDI-19712 and at any other previously undiscovered archaeological site, including the methodology and results of offsite screening of sediment, in the event it is necessary. The report shall						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
include the results of the fieldwork and all appropriate laboratory and analytical studies that were performed in conjunction with excavations. • ***Curation of Archaeological Collections:*** Archaeological collections comprise several components, including artifacts, environmental and dating samples, field documentation, laboratory documentation, photographic records, related historical documents, and reports. The District's qualified archaeologist shall prepare a plan for curating all artifacts, notes, photographs, and materials recovered during identification, evaluation, data recovery, and monitoring. Artifacts to be curated shall include all those that were not discarded pursuant to the artifact disposition policy. The curation plan shall be consistent with the OHP's *Guidelines for the Curation of Archaeological Collections* (1993). Curation of artifacts and materials recovered from archaeological investigations requires a formal agreement between the District and a certified curation facility, which shall be initiated prior to undertaking archaeological fieldwork. All materials that are to be curated shall be placed in archival quality, long-term storage packing materials, including acid-free, lignin-free boxes and inert polyethylene bags. The District shall also curate records prepared or assembled in						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
connection with the project, including field notes, drawings, photographs, maps, special studies, and final reports. After completion of laboratory analyses and the production of the final reports, the collection shall be transported to the designated curation facility where it shall be available for study by researchers. • ***Personnel and Qualifications:*** The CRMMP shall include a discussion of roles and required qualifications for personnel conducting archaeological testing, evaluation, data recovery, and monitoring. All qualifications shall be verified by the District prior to conducting work for the project. All procedures required by this mitigation measure shall be carried out by, or under the direct supervision of, persons who meet, at a minimum, the SOI's Professional Qualifications Standards for Archaeology (48 FR 44739) and are members of the Register of Professional Archaeologists. The CRMMP shall outline the requirements and responsibilities for each role, including identifying which personnel shall have the authority to issue stop-work orders during construction and who is responsible for initiating notification procedures in the event of an unanticipated discovery. • ***Measures for Protecting Cultural Resources*:** The CRMMP shall include the following measures designed to minimize harm to portions of archaeological sites both within and						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
outside the project's limits of disturbance during construction: ○ *WEAP Training:* The District's qualified archaeologist shall prepare a cultural resource-focused WEAP training that shall be given to all ground-disturbing construction personnel to minimize harm to known and unknown archaeological resources. Topics to be included for WEAP training shall be identified in the CRMMP. All site workers shall be required to complete the WEAP training with a focus on cultural resources, including education on the consequences of unauthorized collection of artifacts and a review of discovery protocol. The WEAP training shall also explain the requirements of mitigation measures to be implemented during ground-disturbing activities. ○ *Delineation of Work Limits*: Prior to construction, the project work limits in the vicinity of previously recorded resources CA-SDI-4360 and CA-SDI-19712 shall be delineated with environmentally sensitive area fencing in order to protect these areas from unnecessary impacts. ○ *Archaeological Monitoring:* The District shall retain archaeological monitors to observe all project-related ground-disturbing activities.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
The CRMMP shall specify monitoring locations and protocols based on proposed construction activities and the results of archaeological identification, evaluation, and data recovery. In areas where archaeological deposits were not identified or were determined to be disturbed, a single monitor shall be able to observe two or more construction locations or activities within a reasonable walking distance of each other. In areas where intact archaeological deposits were identified, even if they were subject to data recovery, one monitor per location or activity shall be required. The monitors shall be supervised by a qualified archaeologist who meets the SOI's Professional Qualification Standards for Archaeology (48 FR 44739) and has regional experience in prehistoric archaeology. The CRMMP shall rely on OSHA–qualified determinations in regard to the safety of monitoring locations. The CRMMP shall include a plan for sampling and offsite visual observation and screening of sediment removed during excavation in the event that onsite monitoring of excavations is						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
unfeasible due to safety considerations. Based on the research design, an appropriate sampling strategy shall be laid out, specifying the relative proportion of sediment to be sampled, protocols for coordinating with construction crews, location where spoils shall be deposited, and procedures for observation, screening, and documentation. In determining sampling protocols, the plan shall consider the archaeological sensitivity of the location from which the sediment has been removed. In areas where archaeological deposits were not identified or were determined to be disturbed, visual observation of a small sample of the spoils (less than 5 percent) shall be required. In areas where intact archaeological deposits were identified, even if they were subject to data recovery, visual observation of a larger sample of the spoils (approximately 20 percent) and screening of a subset of this sample (approximately 5 percent) shall be required. ○ *Unanticipated Discovery Protocol*: As required by Section 15064.5(f) of the CEQA Guidelines, the CRMMP shall include provisions for historical or unique archaeological resources accidentally discovered during						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
construction. If cultural materials are discovered during construction, all ground disturbance within a 100-foot-wide buffer of the immediate discovery area shall temporarily cease until the District's qualified archaeologist can assess the nature and significance of the find. If the feature or deposit appears to be intact, it shall be evaluated according to the procedures detailed in the archaeological testing and evaluation plan and the District shall be immediately notified. If the feature or deposit is determined to be significant, the procedures outlined in the data recovery plan shall be implemented. • ***Native American Cultural Patrimony:*** In the event of the discovery, during any stage of archaeological research or construction, of objects or features with cultural value to descendant communities, including Native American burial remains, associated and unassociated funerary objects, sacred objects, and other cultural patrimony, all ground-disturbing activities in the vicinity of the discovery shall cease immediately. In case isolated objects are encountered in disturbed stratigraphic contexts, the Native American monitor shall be consulted to ensure appropriate treatment or disposition of the objects (per MM CR-4). In case intact deposits are encountered that may reasonably indicate the presence of burial features or						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
human remains, a 100-foot-wide buffer shall be established around the find to secure it from further disturbance and all applicable protocols shall be followed in accordance with MM CR-3.						
MM CR-2 Documentation of Pond 20 to Historic American Landscape Survey Standards and Development of Educational Display. Prior to commencement of any ground-disturbing activities within the Wetland Mitigation Bank Parcel, the District shall supplement the existing HALS documentation of the WSC Salt Works District (USFWS 2001) with additional research, field recordation, and photographic documentation of Pond 20A to HALS standards. Further documentation of Pond 20A shall include: (1) large-format photographic recordation of views of the setting and character-defining features of the portion of Pond 20A within the project site, including levees, channels, secondary berms delimiting individual ponds, and wooden post-and-plank features; (2) preparation of a detailed plan of the historical features of Pond 20A based on field recordation; (3) a detailed historical narrative report; and (4) compilation of historical research, photographs, and maps. The documentation shall be completed by a qualified historian or architectural historian who meets the Secretary of the Interior's Professional Qualification Standards for History or Architectural History. The archival documentation shall be donated to a suitable repository, such as the San Diego	Collect further documentation of Pond 20 for supplement to existing HALS documentation	District	Prior to construction	Project Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
History Center, and copies shall be provided to local historical organizations, such as the South Bay Historical Society. Because creation of the Wetland Mitigation Bank Parcel would alter or destroy some of the existing features of Pond 20A that are representative of past salt works activities (while retaining others, such as the surrounding berm), the District shall design, fabricate, and install an educational display based on archival documentation. The educational display shall include two interpretive panels with historical photographs, maps, and narrative text demonstrating the history of the salt pond and its past use, to be placed in public view at suitable locations at the southern (along Palm Avenue) and western (adjacent to the 13th Street parking lot) boundaries of the project site. The panels shall include information directing viewers to a website, to be designed, prepared, and maintained by the District, providing further historical narratives, photographs, and maps based on archival documentation.						
MM CR-3 Inadvertent Discovery of Human Remains. If any previously unrecorded human remains are inadvertently discovered during archaeological investigations or construction, all ground-disturbing activities in the vicinity of the discovery shall cease immediately and a 100-foot-wide buffer shall be established around it to secure it from further disturbance. California State law (Health and Safety Code Section 7050.5; PRC Sections 5097.94, 5097.98	Implement procedures if human remains discovered	District and contractor	During construction	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
and 5097.99) shall be followed. This law specifies that work shall stop immediately in any areas where human remains or suspected human remains are encountered. The District and the county coroner shall be immediately notified of the discovery. The coroner has 2 working days to examine the remains after being notified by the lead agency. If the remains are determined to be Native American, the coroner has 24 hours to notify NAHC, who shall determine the most likely descendant. The NAHC shall immediately notify the identified most likely descendant, and the most likely descendant has 48 hours to make recommendations to the landowner or representative for the respectful treatment or disposition of the remains and grave goods. If the most likely descendant does not make recommendations within 48 hours, the area of the property shall be secured from further disturbance. If no recommendation is given, the District or its authorized representative shall re-inter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.						
Geology and Soils						
MM GEO-1 Paleontological Monitoring in Areas of Sensitivity. To reduce potential impacts on paleontological resources, all proposed grading and excavating to depths greater than 10 feet shall be monitored by a qualified paleontologist(s), approved by the District's Planning Department, paid for by	Retain a qualified Paleontologist and conduct monitoring	District and project proponent	If grading or excavations would occur at depths greater than 10 feet, then a qualified paleontologist shall be retained prior to	Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
the project proponent. Specifically, the project proponent and/or its construction supervisor shall ensure the following measures are implemented. • A qualified Paleontologist shall attend the preconstruction meeting to consult with the grading and excavation contractors concerning excavation schedules, paleontological field techniques, and safety issues. A qualified Paleontologist is defined as an individual with a M.S. or Ph.D. in paleontology or geology who is familiar with paleontological procedures and techniques, who is knowledgeable in the geology and paleontology of San Diego County, and who has worked as a paleontological mitigation project supervisor in the County for at least 1 year. • A paleontological monitor shall be on site on a full-time basis during excavation and pile driving activities that occur 10 feet or more bgs, to inspect exposures for contained fossils. The paleontological monitor shall work under the direction of the qualified Paleontologist. A paleontological monitor is defined as an individual selected by the qualified Paleontologist who has experience in the collection and salvage of fossil materials. • If fossils are discovered, the Paleontologist shall recover them and temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner.			construction and monitor during construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
• Fossil remains collected during the monitoring and salvage portion of the mitigation program shall be cleaned, repaired, sorted, and catalogued. • Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall be deposited (as a donation) in a scientific institution with permanent paleontological collections, such as the San Diego Natural History Museum. Donation of the fossils shall be accompanied by financial support for initial specimen storage, paid for by the project proponent. Within 30 days after the completion of an excavation and pile-driving activities, a final data recovery report shall be completed by the qualified Paleontologist that outlines the results of the mitigation program. This report shall include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils.						
Greenhouse Gas Emissions						
MM GHG-1 Greenhouse Gas Emission Reducing Design. Prior to approval, future commercial developments shall list all GHG emission-reducing measures and demonstrate where these measures would be located in the plans. A report demonstrating compliance shall be submitted to the District's Planning Department. The following is a list of proposed sustainability measures from the District	Incorporate GHG emission reducing measures into the design.	Project proponent	Prior to construction	Program Level		
	Verify GHG reducing measures have been incorporated into the building plans.	District				

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date

CAP that shall be required and incorporated into the CDP for the project.
• General measures:
  ○ No commercial drive-through shall be implemented.
• Water:
  ○ Indoor water consumption shall be reduced by 20 percent lower than baseline buildings (defined by Leadership in Energy and Environmental Design as indoor water use after meeting Energy Policy Act of 1992 fixture performance requirements) through use of low-flow fixtures in all administrative and common area bathrooms.
  ○ Low-water plantings and drip irrigation shall be installed, and domestic water demand from the city system for landscaping purposes shall be minimized.
• Waste:
  ○ Compliance with AB 939 shall be mandatory and include recycling at least 50 percent of solid waste; recycling of demolition debris shall be mandatory and include recycling at least 65 percent of all construction and demolition debris.
  ○ All commercial, restaurant, and retail uses shall implement recycling, composting of food						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
waste and other organics, and the use of reusable products instead of disposable products to divert solid waste from the landfill stream. ○ Recycled, regional, and rapidly renewable materials shall be used where appropriate during project construction. • Energy: ○ Energy efficiency design features shall be incorporated that exceed the most recent Title 24 California Building Energy Efficiency Standards. Measures that may be implemented include: ▪ Only fluorescent, light-emitting diodes, compact fluorescent lights, or the most energy-efficient lighting that meets required lighting standards and is commercially available shall be used. ▪ Occupancy sensors for all vending machines shall be installed in new buildings at the project site. ▪ On-site renewable energy to new buildings shall be implemented, unless the system cannot be built due to structural and operational constraints; evidence must be provided if not feasible, subject to District concurrence.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
▪ Cogeneration systems (i.e., combined heat and power systems) shall be installed in new buildings constructed at the project site. ▪ High-performance glazing with a low solar heat gain coefficient value that reduces the amount of solar heat allowed into the building shall be installed, without compromising natural illumination. ▪ Increased insulation shall be installed. ▪ Cool roofs with an R value of 30 or better shall be installed. ▪ Sun-shading devices shall be installed, as appropriate. ▪ High-efficiency heating, ventilating, and air conditioning systems and controls shall be installed. ▪ Programmable thermostats shall be installed. ▪ Variable frequency drives shall be installed. ▪ Energy Star-rated appliances shall be installed. • Mobile sources:						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
○ A minimum 6 percent of parking spaces shall be electric vehicle-ready. ○ A TDM plan for each project component that requires mandatory employer commuting measures, such as carpooling, transit subsidies, and vanpools, shall be implemented to reduce worker trips and parking demand. ○ Bicycle parking shall be included in project design. The number of spaces shall be, at a minimum, 5 percent of new automobile parking spaces. • Carbon sequestration and land use: ○ Trees and shrub planters shall be installed throughout the project area as part of the landscape plan.						
MM GHG-2 Electric Heating and Zero Net Energy Building. The District shall require all development to meet the state's Zero Net Energy standards, if the standards are adopted prior to commencement of construction.	Incorporate electric heating and Zero Net Energy standards into the design.	Project proponent	Prior to construction	Program Level		
	Verify electric heating and Zero Net Energy standards have been incorporated into the building plans.	District				
Hazards and Hazardous Materials						
MM HAZ-1 Prepare and Implement a Soil Management Plan. Prior to construction, the project proponent shall retain a licensed	Prepare and implement Soil Management Plan	District, project proponent, and contractor	Prior to construction prepare Soil Management Plan	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Professional Geologist, Professional Engineering Geologist, or Professional Engineer with experience in contaminated site restoration to prepare and submit a Soil Management Plan to the District for review and approval. After the District's review and approval, the project proponent shall implement the Soil Management Plan. The plan shall include general provisions for how soils shall be managed within the project site. The plan shall ensure that soil requiring additional testing is identified and any soils that contain contaminants over the screening thresholds are properly managed. The plan shall address CCR Title 22 and Section 13260(a) of the California Water Code. The Soil Management Plan shall include the following: • A *Site Contamination Characterization Report* (Characterization Report) delineating the vertical and lateral extent and concentration of residual contamination from the site's past uses. The Characterization Report shall include a compilation of data based on historical records review and from prior reports and investigations and, where data gaps are found, include new soil sampling to characterize the existing vertical and lateral extent and concentration of residual contamination. The project applicant shall coordinate with the County of San Diego Department of Health if the Characterization Report identifies contamination. • A *Soil Testing and Profiling Plan* (Testing and Profiling Plan) for those materials that			and implement during construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
would be reused onsite, reused offsite, or disposed of during construction. Testing shall occur for all potential contaminants of concern, which shall include CCR Title 22 metals, VOCs, and TPH at a minimum, and may also include polyaromatic hydrocarbon, pesticides, polychlorinated biphenyls, or any other suspected potential contaminants. For onsite soil reuse, the Testing and Profiling Plan shall document testing results compared to the ERL thresholds for adverse biological effects (Long et al. 1995). For off-site soil reuse, the Testing and Profiling Plan shall document compliance with applicable screening criteria, which may include U.S. EPA Region 9 RSLs for composite worker soil, DTSC Modified screening levels for commercial and industrial soils, and Tier 1 SSLs contained in RWQCB San Diego Region Order No R9-2014-0041, Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (Waiver 10, Section B(4)). However, offsite reuse screening criteria may be site specific. For offsite disposal, the Testing and Profiling Plan shall document compliance with CCR Title 22 for proper identification and segregation of hazardous and solid waste as needed for acceptance at a CCR Title 22–compliant offsite disposal facility. All excavation activities shall be actively monitored by a licensed Professional Geologist, Professional Engineering Geologist, or Professional Engineer for the potential presence of						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
contaminated soils and for compliance with the Testing and Profiling Plan. • A *Soil Disposal Plan* (Disposal Plan), which shall describe the process for excavation, stockpiling, dewatering, treating, and loading and hauling of soil from the site. This plan shall be prepared in accordance with the Testing and Profiling Plan (i.e., in accordance with CCR Title 22 and U.S. DOT Title 40 CFR Part 263), Section 13260(a) of the California Water Code, and current industry best practices for the prevention of cross contamination, spills, or releases. Measures shall include, but not be limited to, segregation into separate piles for waste profile analysis based on organic vapor, and visual and odor monitoring. Alternatively, soil shall be fully characterized *in situ*, prior to excavation, and may be loaded directly for transport and reuse or disposal in lieu of stockpiling. General soil management controls to be implemented by the contractor and the following topics shall be addressed within the Soil Management Plan: • Dust control • Management of soil stockpiles • Stormwater erosion control using BMPs, as specified in a SWPPP						
MM HAZ-2 Prepare and Implement a Site Worker Health and Safety Plan. Prior to construction the project proponent shall	Prepare and implement Site	District, project proponent, and contractor	Prior to construction prepare Site Worker Health and Safety	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
prepare and submit a Site Worker Health and Safety Plan (Safety Plan) to the District for review and approval. The Safety Plan shall ensure compliance with 29 CFR Part 120, Hazardous Waste Operations and Emergency Response regulations for site workers at uncontrolled hazardous waste sites. The Safety Plan shall ensure that site workers potentially exposed to site contamination in soil and groundwater are trained, equipped, and monitored during site activity. The training, equipment, and monitoring activities shall ensure that workers are not exposed to contaminants above personnel exposure limits established by Table Z, 29 CFR Part 1910.1000. The Safety Plan shall be signed by and implemented under the oversight of a California State Certified Industrial Hygienist.	Worker Health and Safety Plan		Plan and implement during construction			
Hydrology and Water Quality						
MM HY-1 Bridge and Channel Scour Monitoring and Maintenance. A Bridge and Channel Scour Monitoring and Maintenance Program shall be developed and implemented by the District. The program shall outline a survey plan to be carried out for a minimum of 10 years. The survey plan shall: • Identify protocols for collecting baseline data prior to commencement of construction; • Identify a minimum of 5 cross sections to be surveyed for scour and the area to be surveyed for sensitive habitats;	Prepare a Bridge and Channel Scour Monitoring and Maintenance Program	District	Prior to completion of the project	Project Level		
	Conduct monitoring	District in coordination with USFWS	For a minimum of 10 years after construction is complete			
	Implement adaptive strategies	District in coordination with USFWS	When identified			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
• Require annual monitoring for at least 10 years; • Identify ideal conditions for monitoring (i.e., season, tide level); • Identify monitoring protocols (i.e., qualified biologist); and • Require a professional engineer and qualified biologist to review the results of the surveys. Based on the results of the survey, a professional engineer shall compare the results of the annual surveys to baseline conditions to determine the amount of scour at each cross section. The professional engineer shall identify adaptive management strategies, if necessary, to ensure the existing structures do not fail, including the Bayshore Bikeway Bridge and salt pond berms. During the 10th year of monitoring, the professional engineer shall determine if additional annual monitoring is needed. Additional annual monitoring shall be assessed on an annual basis following the completion of 10 years of monitoring. The qualified biologist shall compare the results of the annual surveys to baseline conditions to determine impacts on sensitive habitats. If impacts on sensitive habitat are documented, then compensatory mitigation per MM BR-10 shall be determined in consultation with applicable agencies.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
The cross sections included in the program shall include the channel in the area of the Bayshore Bikeway Bridge and the narrow channel cross section of the Otay River immediately downstream of the bridge near Pond 22 identified in Environmental Science Associate's 2020 Hydrodynamic Modeling Report (Appendix K to this EIR). The sensitive habitat survey area shall include the area from the berm breach site to the marsh bank at the narrow channel cross section of the Otay River. As part of the baseline data collected, the program shall require probing the sediment in the channel in the vicinity of the Bayshore Bikeway Bridge. The conservatively high estimate in Environmental Science Associates' 2020 Hydrodynamic Modeling Report (Appendix K to this EIR) identified the potential for widening of the channel to occur if downcutting is limited at this location. If hardened areas in the sediment are identified at this location, the professional engineer shall identify adaptive management strategies. Baseline data should also include vegetation mapping from the berm breach site to the marsh bank at the narrow channel cross section of the Otay River. The program shall identify adaptive management strategies that are appropriate for the location, which would not impact tidal influence at the mitigation bank, and are approved by the professional engineer.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Potential adaptive management strategies include: • Removal of hardened sediment near the Bayshore Bikeway Bridge; • Excavation of sediment; • Re-grading of the channel; and • Armoring of the channel. If re-grading or armoring is required, the program shall include measures to ensure consistency with post-construction erosion control plans.						
Noise						
MM NOI-1 Employ Noise Reducing Measures During Construction. Construction of the future commercial development on Parcels A, B, and/or C shall be required to comply with the following measures: a) Construction activity is prohibited between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day, or on legal holidays as specified in Section 21.04 of the San Diego Municipal Code, with exception of Columbus Day and Washington's Birthday, or on Sundays, that would create disturbing, excessive, or offensive noise unless a permit has been applied for and granted beforehand by the Noise Abatement and Control Administrator, in	• Limit construction activities to the hours permitted by the San Diego Municipal Code • Equip engines with appropriate mufflers • Prepare a noise construction plan • Install noise barriers where required	Contractor	Prepare noise construction plan prior to construction and implement remaining measures during construction	Program Level		
	Verify contractor works during permitted hours, installs appropriate mufflers, prepares a noise construction plan, and installs noise barriers when required	District				

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
conformance with San Diego Municipal Code Section 59.5.0404. No noise variance permit would be sought and construction would adhere to the times identified above. b) The contractor shall equip all internal combustion engines with the manufacturer-recommended muffler and shall not operate any internal combustion engine on the job site without the appropriate muffler. c) The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. d) When construction activities are projected to exceed 75 dBA L_{eq} during the 12–hour period from 7:00 a.m. to 7:00 p.m., equipment generating the noise shall be acoustically shielded with temporary noise barriers or pile driving shielding. The need for and feasibility of temporary noise barriers would be evaluated on a case-by-case basis by considering the distance to						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
noise-sensitive receptors, available space at the construction location, safety, and proposed project operations.						
Transportation						
MM TRAN-1 Implement Transportation Demand Management Measures. To reduce VMT by operation of future commercial development, the following TDM reduction measures from the SANDAG Mobility Management VMT Reduction Calculator Tool shall be implemented. • *1B Mandatory Employer Commute Program.* The District shall mandate future project applicants to implement a commute program as part of their lease. Employer offers a mandatory employer commute trip reduction program. The program may include a carpool or vanpool program, subsidized or discounted transit passes, bike amenities, encouragement for telecommuting and alternative work schedules, commute trip reduction marketing, and preferential parking permit program. ○ *1C Employer Carpool Program.* Employers can encourage carpooling by providing ridematching assistance to employees; providing priority parking for carshare vehicles; and providing incentives for carpooling. The District shall mandate future project applicants to implement a	Implement TDM reduction measures Verify TDM reduction measures have been implemented	Project proponent District		Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
commute program as part of their lease. ○ *1D Employer Transit Pass Subsidy.* Employers can encourage employees to take transit by subsidized or discounted daily or monthly public transit passes to employees. ○ *1E Employer Vanpool Program.* Vanpooling is a flexible form of public transportation that provides groups of 5–15 people with a cost-effective and convenient rideshare option for commuting. An employer can encourage ridesharing by subsidizing vanpooling for employees that have a similar origin and destination and by providing priority parking for employees that vanpool. The SANDAG Vanpool Program provides a subsidy of up to $400 per month to offset the vehicle lease cost. • *4C Bike Facility Improvement.* A bikeway network includes an interconnected system of bike lanes, bike paths, and cycle tracks (Class I, Class II, and Class IV facilities). Bike facilities may share the roadway with vehicles or provide a dedicated pathway that separates bikes from cars or pedestrians. Increasing the network of bike facilities help to encourage biking as a safe and convenient alternative to driving.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Tribal Cultural Resources						
MM TCR-1 Native American Monitoring. The District shall retain a qualified Native American cultural resource monitor to be present during all archaeological investigations, grading, and subsurface disturbance within the project site. In the event that on-site monitoring of excavations is determined unfeasible due to safety or logistical concerns, the Native American monitor shall be present during off-site visual observation or screening of sediment, as detailed in MM CR-1. The Native American monitor shall work in coordination with the archeological monitor and the District's qualified archaeologist, who shall notify them in advance of the schedule and locations for cultural resource monitoring activities. If more than one location is under construction at a given time, and if both locations cannot effectively be monitored by one individual, more than one Native American monitor may be required. Because the Native American monitor is invited to participate, work shall be allowed to continue without their presence. The Native American monitor shall not have the authority to temporarily halt equipment or issue a stop-work order. The Native American monitor shall report any concerns and input to the archaeological monitor or the District's qualified archaeologist, who shall be responsible for taking the appropriate action in response.	Retain a qualified Native American monitor	District or project proponent	During construction	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date

Notes:

AB=Assembly Bill; ACHP=Advisory Council on Historic Preservation; ACOE=United Sates Army Corps of Engineers; bgs=below ground surface; BMP=best management practices; CAP=Climate Action Plan; CCC=California Coastal Commission; CCR=California Code of Regulations; CDFG=California Department of Fish and Game; CDFW=California Department of Fish and Wildlife; CDP=Coastal Development Permit; CEQA=California Environmental Quality Act; CFR=Code of Federal Regulations; CNPS=California Native Plant Society; CRHR=California Register of Historical Resources; CRMMP=Cultural Resource Mitigation and Management Plan; dBA=A-weighted decibel; DOT=Department of Transportation; DTSC=Department of Toxic Substances Control; EIR=environmental impact report; EPA=Environmental Protection Agency; ERL=effects range low; ESHA=environmentally sensitive habitat areas; FR=*Federal Register*; GHG=greenhouse gas; GPS=global positioning system; HALS=Historic American Landscapes Survey; L_{eq}=equivalent sound level; NAHC=Native American Heritage Commission; NMFS=National Marine Fisheries Service; MM=mitigation measures; OHP=Office of Historic Preservation; ORERP=Otay River Estuary Restoration Project; OSHA=Occupational Safety and Health Administration; PRC=Public Resources Code; RSL=Regional Screening Levels; RWQCB=Regional Water Quality Control Board; SANDAG=San Diego Association of Governments; SCIC=South Coast Information Center; SHA=sensitive habitat area; SOI=Secretary of Interior; SSL=Soil Screening Levels SWPPP=Storm Water Pollution Prevention Plan; TDM=transportation demand management; TPH=total petroleum hydrocarbons; USFWS=United States Fish and Wildlife; U.S.=United States; VMT=vehicle miles traveled; VOC=volatile organic compounds; WEAP=Worker Environmental Awareness Program; WOS=Waters of the State; WOUS=Waters of the United States; WSC=Western Salt Company

Findings of Fact and Statement of Overriding Considerations

Wetland Mitigation Bank at Pond 20 and Port Master Plan Amendment

San Diego, California

April 2021

State Clearinghouse Number 2019060167

Prepared for:

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Acronyms and Abbreviations

ACOE	Army Corps of Engineers
Bank Site	Wetland Mitigation Bank at Pond 20
BEI	bank enabling instrument
BMP	best management practice
Board	Board of Port Commissioners
CCC	California Coastal Commission
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CO2e	carbon dioxide equivalent
CRMMP	Cultural Resource Mitigation and Monitoring Plan
dBA	A-weighted decibels
District	San Diego Unified Port District
EDF	Economic Development Fund
EIR	environmental impact report
EIS	environmental impact statement
FR	Federal Register
GHG	greenhouse gas
L_{eq}	equivalent sound level
MM	mitigation measure
MMRP	mitigation monitoring and reporting program
MT	metric ton
NEPA	National Environmental Policy Act
NOP	Notice of Preparation
NWR	National Wildlife Refuge
ORERP	Otay River Estuary Restoration Project
PMP	Port Master Plan
PMPA	Port Master Plan Amendment
project	Wetland Mitigation Bank at Pond 20 and Port Master Plan Amendment Project
RWQCB	Regional Water Quality Control Board
SHA	sensitive habitat area
SOI	Secretary of Interior
U.S.	United States
USFWS	United States Fish and Wildlife Service
WEAP	Worker Environmental Awareness Program
WOUS	waters of the United States
VMT	vehicle miles traveled

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1 Introduction

The Board of Port Commissioners (Board) of the San Diego Unified Port District (District) hereby makes the following Findings of Fact and Statement of Overriding Considerations concerning the Final Environmental Impact Report (EIR) (UPD Number EIR-2019-010 and State Clearinghouse Number 2019060167) for the Wetland Mitigation Bank at Pond 20 and Port Master Plan Amendment Project (proposed project or project), pursuant to the California Environmental Quality Act (CEQA) (California Public Resources Code Section 21000, et seq.), and its implementing regulations, the CEQA Guidelines (California Code of Regulations [CCR], Title 14 Section 15000, et seq.).

The Final EIR prepared for the proposed project consists of the revised Draft EIR, comments received on the Draft EIR, and the District's responses to those comments.

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2 Project Description

2.1 Project Location

The project site consists of approximately 95 acres of District-owned land and a small portion which is federally managed land, located in the City of San Diego, east of the City of Imperial Beach and south of the confluences of Nestor Creek, Otay River, and San Diego Bay. The project site is located within the Imperial Beach United States [U.S.] Geological Survey 7.5-minute quadrangle and is entirely within the Coastal Zone.

There is no official address for the project site; however, it is located immediately north of Palm Avenue (State Route 75), south of the San Diego Bay National Wildlife Refuge (NWR) South San Diego Bay Unit managed by U.S. Fish and Wildlife Service (USFWS), east of 13th Street, west of 16th Street, and southwest of Otay Valley Regional Park. Interstate 5 is located approximately 1 mile east of the project site.

2.2 Project Components

The project site is divided into three main components: the Bank Parcel, Parcels A, B, and C, and the berm breach location. The Bank Parcel is 83.5 acres and contains the southern portion of the former salt evaporation pond known as Pond 20. The Bank Parcel extends beyond the existing salt pond berms to also include Nestor Creek and the Otay River Tributary. The Wetland Mitigation Bank at Pond 20 (Bank Site) would be developed within the existing Pond 20 berms within the Bank Parcel. Parcels A, B, and C are immediately adjacent to the Bank Parcel but entirely outside the Pond 20 berms.

The proposed project includes a project-level and program-level component, both of which are evaluated in this EIR. The proposed project is evaluated as a whole because the components are connected through the proposed Port Master Plan Amendment (PMPA); however, the level of analysis varies for the two components based on the level of detail known at this time. Details are provided below.

1. **Wetland Mitigation Bank at Pond 20 (Project-Level) –** The District is proposing the creation of a wetland mitigation bank within a portion of District-owned property, which was historically used as salt evaporation pond (Bank Parcel). The project includes associated construction and long-term operation and maintenance activities of the mitigation bank. The Bank Parcel is District-owned property. However, currently this area is not yet incorporated into the Port Master Plan (PMP). The District is proposing a PMPA to incorporate the Bank Parcel into the District's PMP and assign a land use designation of Wetlands. The Wetlands designation is for undeveloped lands having high biological productivity and, as recognized by the PMP, may include areas designated for mitigation, or areas identified for potential wetland enhancement, restoration, and/or creation opportunities. The creation of the wetland mitigation bank, as well as the incorporation and land use designation of the wetland mitigation bank into the PMP, is evaluated at a project level in this EIR.

2. **PMPA for Parcels A, B, and C (Program-Level) –** As part of the PMPA, the District is proposing to incorporate Parcels A, B, and C into the District's PMP and assign land use designations. Parcels A, B, and C are District-owned property; however, currently these areas are not yet incorporated into the PMP. Parcels A, B, and C would be assigned a commercial recreation designation. Incorporation of Parcels A, B, and C is evaluated at a program level because the specific details of any future development proposal is currently unknown.

2.2.1 Wetland Mitigation Bank at Pond 20

The proposed mitigation bank involves the creation, restoration, and on-going maintenance and monitoring of tidal wetland habitat and upland buffer habitat. Implementation of the project would allow the District to establish a mitigation credit program that could compensate for future off-site impacts from other public and private development projects under Section 404 of the Clean Water Act, the California Coastal Act, the Porter-Cologne Water Quality Control Act, and the California Eelgrass Mitigation Policy. The credits available could be for the following habitats: high marsh, mid marsh, low marsh, intertidal mudflat, transitional habitat, and subtidal eelgrass habitat.

While the Bank Site itself is proposed to be approximately 80 acres, it is anticipated to provide approximately 76.48 acres of mitigation credit, including approximately 64.84 acres of subtidal and intertidal habitat establishment and 11.64 acres of transitional/upland buffer habitat restoration (Appendix C of the Final EIR). The remaining Bank Site acreage consists of existing perimeter berms that would remain in place as additional buffer areas.

The proposed mitigation bank would complement surrounding land uses by expanding valuable wetland habitat adjacent to the San Diego Bay NWR, providing essential wetland functions and services for adjacent communities, including storm surge and flood protection and stormwater buffering. The vegetation would act as attractors for local wildlife, and the overall wetland establishment and enhancement would increase other values, including improved water quality. Additional value enhancements include creating habitat to support spawning and breeding for native fish and birds; this would have indirect benefits to the local bird-watching and fishing, as well as providing habitat to support diverse fish populations and community assemblages within San Diego Bay and across coastal Southern California.

Additionally, the Board Policy Number 774[1] established the Pond 20 Economic Development Fund (EDF) in 2015, which requires the District to transfer all net revenue derived from the Bank Site to the EDF, which would then be equally divided between two sub-funds for designated projects in Imperial Beach and the adjacent portion of the City of San Diego's City Council District 8.

Key Restoration and Creation Elements

The proposed project is designed to be a self-sustaining marsh habitat matrix. The primary hydrologic source for the Bank Site would be unobstructed tidal inflows from San Diego Bay and the Otay River, which passes through protected NWR lands before entering the Bank Site. The inlet below the Bayshore Bikeway Bridge is approximately 70 feet wide and allows full passage of tidal flows under all tidal regimes. Additional water input to the Bank Site would come from precipitation and occasional stormwater inputs via internal loading and runoff from Palm Avenue. Tidal hydrology would be reestablished by breaching the Pond 20 northern perimeter berm. The District would excavate the

[1] Available at: https://pantheonstorage.blob.core.windows.net/administration/BPC-Policy-No-774-Pond-20-Economic-Development-Fund-EDF.pdf

Bank Site and a network of tidal channels to facilitate distribution of tidal flows to achieve inundation frequencies required by the following tidal open water, mudflat, and wetland habitat types:

- Intertidal mudflat habitat
- Low marsh habitat
- Mid-marsh habitat
- High marsh habitat
- Subtidal eelgrass

Additionally, restoration would include establishing a transition zone and upland habitats on the existing berms.

The District would install suitable native plant material and would salvage existing on-site native vegetation for reestablishment after construction of the mitigation bank. Using various protection, restoration, enhancement, and management strategies, the Bank Site would also provide ancillary habitat to support protected migratory and resident shorebird species and fishes in the region, such as intermittent openings to promote habitat for western snowy plover.

Otay River Estuary Restoration Project

The Otay River Estuary Restoration Project (ORERP) is a planned mitigation project (not a part of the proposed project) developed to offset impacts on marine organisms caused by the Poseidon Water Resources Desalination Facility located in Carlsbad, California. The ORERP site is located north, adjacent to the Bank Parcel within the San Diego Bay NWR under the jurisdiction of USFWS and comprises the northern portion of Pond 20. The ORERP is being implemented by the Poseidon Water Resources Desalination Facility, in partnership with USFWS. USFWS prepared the ORERP Final Environmental Impact Statement (EIS) in February 2018, with the Record of Decision issued in October 2018.

The proposed mitigation bank on the southern portion of Pond 20 owned by the District is being designed to be consistent with the wetlands and habitat to be created by the ORERP, with similar goals and objectives to protect, preserve, and facilitate establishment of habitats and species. Although the two restoration projects would be restored and operated independently of one another, the overall proximity of the two sites to the San Diego Bay NWR would increase habitat connectivity and contribute meaningful habitat and ecosystem services to the South San Diego Bay region.

Berm Breach and Channel Modification

Bank Site Perimeter Berm

The former salt pond known as Pond 20 (ORERP site and District-owned Bank Parcel) is currently enclosed by an existing berm along the southern bank of the Otay River that isolates both project sites from receiving tidal flows. There is no natural separation between the ORERP site and Bank Site. As discussed in the ORERP Final EIS, the ORERP project plans to breach a berm to the San Diego Bay to allow tidal flow into that ORERP site. To prevent flooding within the Bank Site, the ORERP Final EIS analyzes constructing a levee, in the form of an earthen berm, along the southern edge of the ORERP wetland restoration site to prevent tidal and/or flood waters from entering the Bank Site once construction at the ORERP site is complete. This would keep the Bank Site dry once the ORERP site

is operational. The National Environmental Policy Act (NEPA) compliance for construction of the earthen berm was included in the ORERP Final EIS.

Although approval of ORERP occurred in October 2018, construction has not yet started. Therefore, considering the unknown construction schedule of ORERP, if needed, the proposed project would construct an earthen berm on the southern edge of the ORERP site as part of the proposed project to ensure tidal separation of the project sites. The berm would be constructed with soil excavated from the project site. This berm allows for grading and dredging activities to occur for both projects independently while significantly reducing any potential for inundation to occur on the site that is completed last. Once both projects are constructed, the berm would be left in place.

Berm Breach

To reconnect tidal hydrology to the Bank Site, the existing berm surrounding Pond 20 would be breached. After the berm is breached, the network of constructed tidal channels would facilitate distribution of tidal flows to the Bank Site. The location of the berm breach was identified as the most efficient location. The berm breach is approximately 75 feet wide and would be partially within the San Diego Bay NWR (Assessor's Parcel Numbers 616-021-09).

United States Fish and Wildlife Service Special Use Permit

The earthen berm on the ORERP site and the berm breach component are on San Diego Bay NWR property and are, therefore, subject to a Refuge Special Use Permit, administered by the USFWS. Because USFWS approval is required for the berm breach, NEPA compliance is required. An Environmental Assessment/Finding of No Significant Impact would be prepared by USFWS as a separate action.

Operation, Maintenance, and Monitoring

Bank Establishment

Establishment of the Wetland Mitigation Bank at Pond 20 would be completed using the process outlined by the *Draft Compensatory Mitigation Rule Timeline for Bank or ILF Instrument Approval*. The District is required to prepare a draft bank enabling instrument (BEI) to be submitted for review to the interagency review team coordinated by ACOE and consisting of the U.S. Environmental Protection Agency, USFWS, National Marine Fisheries Service, California Coastal Commission (CCC), and San Diego and Santa Ana Regional Water Quality Control Boards (RWQCB). The District would then prepare a final BEI, which would be considered for approval by ACOE, CCC, and U.S. Environmental Protection Agency (Region IX). A BEI is an agreement between the mitigation bank project sponsor and the regulatory agencies that establishes liability, management and monitoring requirements, performance standards for the mitigation bank, and the terms of approval of the establishment and use of mitigation bank credits. Credit transfers may begin once the BEI has been fully executed by all parties.

Operation and maintenance of the Bank Site would be financed by the District’s operational funds, including the EDF established by BPC Policy No. 774.

Success Criteria and Monitoring

In November 2017, the ACOE evaluated the Evaluation for Planned Wetlands as the project functional assessment for wetland restoration projects. Evaluation for Planned Wetlands is a rapid assessment procedure to document the pre- and post-restoration differences for wetland site conditions and is used to set the restoration goals success criteria for the proposed project. Performance standards cover each type of credit established by the project, including establishment of subtidal eelgrass habitat, tidal and intertidal marsh wetland habitat, and upland buffer/transitional habitat. A 5-year monitoring schedule would be established, but, if all performance standards are met prior to the 5th year of monitoring, all bank credits would be released. The monitoring program would be prepared and approved under a separate process with the interagency review team; however, for purposes of this EIR a conservative estimate of monthly monitoring by one vehicle is assumed.

Long-Term Management and Maintenance

Once all performance standards have been met, the Bank Site is anticipated to be self-sustaining. However, because of the urban surroundings, long-term management may be needed, such as:

- Invasive species monitoring and removal;
- Trash removal;
- Maintenance of site control measures (e.g., fencing); or
- Restoration of any damage from human or maintenance activities or natural phenomenon.

Additionally, contingency measures and adaptive management measures are proposed in the long-term management plan prepared for the draft BEI, which is subject to review and comment by the interagency review team. Final measures would be available with the final BEI. Long-term management and maintenance is assumed to be infrequent annual visits by one vehicle.

Post-Success Criteria Operation

Operation of the mitigation bank includes providing compensatory mitigation credits for impacts on marine, wetland, and transitional habitat within the service area that are authorized under Section 404 of the Clean Water Act, the California Coastal Act, and the Porter-Cologne Water Quality Control Act, as well as impacts on eelgrass habitat under the California Eelgrass Mitigation Policy. The bank would provide compensatory mitigation to intertidal wetlands, salt marsh, and subtidal eelgrass habitat, and the mitigation of freshwater wetland impacts.

2.2.2 Port Master Plan Amendment

The PMP provides the official planning policies, consistent with a general statewide purpose, for the physical development of the tidelands and submerged lands conveyed and granted in trust to the District. A PMPA is proposed to incorporate the Bank Parcel and Parcels A, B, and C into the PMP. The proposed PMPA includes assigning land use designations and adding one vista area to each commercial recreation parcel, as well as one promenade on Parcel A and one promenade on Parcel C, once developed. The PMPA would incorporate the Bank Parcel and Parcels A, B, and C into the PMP in Planning District 9: South Bay Salt Lands.

Bank Parcel

The District-owned Bank Parcel is not currently in the PMP, and therefore, does not currently have a land use designation. As a result, a PMPA would be processed to incorporate the Bank Parcel into the PMP. If adopted by the BPC and certified by the CCC, the PMPA would allow the District to issue a non-appealable Coastal Development Permit for the construction and establishment of wetlands on the Bank Site. To provide long-term assurance, the District proposes to designate the approximately 83.47 acres of the Bank Parcel as wetlands in the PMP through the PMPA process. The wetlands designation is reserved for habitat, wildlife conservation, and environmental protection.

District-Owned Parcels A, B, and C

District-owned Parcels A, B, and C are located along the eastern and western borders of the Bank Parcel. These parcels would be incorporated into the PMP and assigned a commercial recreation land use designation, consistent with the intent of BPC Policy No. 774, as part of the PMPA process. The PMPA would also include adding one vista area to each of these three parcels, as well as one promenade on Parcel A and one promenade on Parcel C (Appendix B). The PMP allows for the following uses under the commercial recreation land use designation: hotels, restaurants, convention center, recreational vehicle parks, specialty shopping, pleasure craft marinas, water-dependent educational and recreational program facilities and activities, dock and dine facilities, and sportfishing. However, the PMPA specifies that uses such as convention center, pleasure craft marina, dock and dine facilities, and sportfishing would not be allowed on Parcels A, B, or C.

Importantly, because no specific commercial development project is proposed at this time, potential future development that may occur on Parcels A, B, and C is analyzed at the conceptual level (i.e. program-level). Future development on any of these parcels would be considered a discretionary action and would require environmental review pursuant to CEQA Guidelines Section 15168.

Additionally, a PMPA would be required prior to the approval of any specific development proposal on the undeveloped portions of Parcels A, B, and/or C. The subsequent PMPA would include more specific development standards and would set specific development limitations, as needed, to implement the CCA and PMP and would be sized and designed in consultation with the applicable regulatory agencies. Notably, the previously developed portion of Parcel B would be subject to different development limitations due to its current developed state and would not require a subsequent PMPA. Upon completion of a PMPA, as may be required for future development of Parcels A, B, and/or C, additional discretionary approvals from the District, such as a CDP and project approval, may be required.

Incorporation of Parcels A, B, and C into the PMP is evaluated at a program level. As described above, no development is proposed on these parcels at this time; however, the following reasonable development assumptions are considered in the program-level analysis:

- **Parcel A –** maximum commercial development of 25,000 square feet and two stories
- **Parcel B –** maximum commercial development of 5,000 square feet and two stories
- **Parcel C –** maximum commercial development of 75,000 square feet and two stories

2.3 Project Objectives

The basic project objectives of the proposed project include the following:

- Incorporate the Bank Parcel into the PMP and assign a land use designation to be compliant with the Port Act and California Coastal Act
- Create a wetland mitigation bank that produces revenue by offering the business community and government agencies the opportunity to purchase predeveloped wetland mitigation credits to mitigate project impacts on wetland habitat
- Enhance ecological functions at the Bank Parcel by providing forage and nesting habitat for native bird species and habitat for native fish species while also creating additional environmental co-benefits such as, but not limited to, carbon sequestration, nutrient cycling, and water quality filtration
- Reduce the chance and scale of flooding within the surrounding off-site area through the Bank Parcel under the existing condition by designing greater capacity to contain stormwater and coastal waters within the Bank Parcel
- Establish tidal influence and create coastal wetlands by reconnecting the Bank Site to tidal flows from San Diego Bay
- Provide long-term protection for the Bank Site by reaching native vegetation coverage and sediment surface elevation success criteria, while providing access for long-term monitoring and restoration of wetlands, as needed
- Incorporate the District-owned Parcels A, B, and C into the PMP and assign a land use designation to be compliant with the Port Act and California Coastal Act
- Support economic development and community investment consistent with the District's adoption of BPC Policy Number 774 (i.e., the Pond 20 EDF) (BPC 2015)
- Promote future development on Parcels A, B, and C that complements adjacent uses

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3 Environmental Procedures

3.1 Lead Agency

Pursuant to CEQA Guidelines Section 15367, the District is the lead agency for the purpose of preparing the environmental review required by CEQA. The environmental review prepared by the District would be used by the Board in connection with its decision to certify the EIR, approve the proposed project, and issue a Coastal Development Permit. The CCC, as a CEQA responsible agency, may also use the EIR to certify the PMPA.

3.2 Environmental Impact Report

Pursuant to CEQA Guidelines Section 15080, et seq., the District prepared an EIR to analyze the potential impacts of the proposed project on the environment. The Final EIR contains all the information required by CEQA Guidelines Section 15132, including the Draft EIR and the appendices to the Draft EIR.

Environmental review of the proposed project began on June 20, 2019, with the publication of the Notice of Preparation (NOP) of the EIR for a 30-day public review period with the County of San Diego County Clerk, in accordance with Section 15082 of the CEQA Guidelines. The NOP was mailed to 360 recipients, including public agencies, organizations, and other interested individuals to solicit their comments on the scope and content of the environmental analysis. A summary of the NOP was posted on the District's website and made available to the public at the Office of the District Clerk and County of San Diego County Clerk's office. A public scoping meeting was held on July 10, 2019.

A total of nine comment letters responding to the NOP were received during the NOP comment period and scoping meeting. A follow up letter from California Department of Transportation was received on May 1, 2020. A copy of the NOP and written comments received in response to the NOP are included in Appendix A of the Final EIR.

Comments received in response to the NOP were used to determine the scope of this EIR. Based on the District's preliminary evaluation of the probable effects of the proposed project documented in the Initial Study (Appendix A of the Final EIR) and a thorough review of the comments on the NOP, it was determined that the Draft EIR should analyze the effects associated with the following resources:

- Aesthetics
- Air quality
- Biological resources
- Cultural Resources
- Energy
- Geology and soils
- Greenhouse gas (GHG) emissions
- Hazards and hazardous materials
- Hydrology and water quality
- Land use and planning

- Noise
- Public Services
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems

It was determined during preparation of the Initial Study that the project would have either a less than significant impact or no impact associated with the following topics:

- Agriculture and forestry resources
- Mineral resources
- Population and housing
- Recreation
- Wildfire

Additionally, the Draft EIR was required to include other CEQA substantive sections, including an executive summary, introduction, project description, cumulative impacts, additional consequences of project implementation, and alternatives.

The Draft EIR was circulated for a 45-day public review period (August 20, 2020, through October 5, 2020) in accordance with Section 15087 of the CEQA Guidelines. Twelve letters were received during the public review period and are responded to in Chapter 7.0, Response to Comments, of the Final EIR.

3.3 Record of Proceedings

For the purposes of CEQA and the Findings, the administrative record of the District's decision concerning certification of the Final EIR for the proposed project includes the following:

- Draft EIR (August 2020)
- Final EIR (April 2021)
- Appendices to the Draft EIR and the Final EIR
- All documents and other materials listed as references or incorporated by reference in the Draft EIR and Final EIR, including but not limited to the materials identified in the Chapter 9, References, of the Final EIR
- All reports, applications, memoranda, maps, letters, and other documents prepared by the District's staff and consultants for the proposed project, which are before the Board and are public records
- Mitigation Monitoring and Reporting Program (MMRP) for the project
- All documents or other materials submitted by interested people and public agencies in connection with the Draft EIR and the Final EIR

- Minutes, tape recordings, and verbatim transcripts (if available) of the public hearing held on April 13, 2021, concerning the Final EIR and the proposed project
- Matters of common knowledge to the Board and the District, including but not limited to the PMP
- All Findings and resolutions adopted by the Board in connection with the project (including these Findings) and all documents cited or referred to therein
- Any documentary or other evidence submitted to the District at information sessions, public meetings, and public hearings concerning the Final EIR and the project
- Any other materials required to be in the record of proceedings by California Public Resources Code, Section 21167.6(e)

The District Clerk is the custodian of the documents and other materials composing the administrative record of the District's decision concerning certification of the Final EIR. The location of the administrative record is the District's office at 3165 Pacific Highway, San Diego, California 92101 (California Public Resources Code, Section 21081.6[a][2]).

The Board has relied on all of the documents listed above in reaching its decision on the proposed project, even if not every document was formally presented to the Board as part of the District files generated in connection with the project. Without exception, any documents set forth above not found in the project files fall into one of two categories. Many of them reflect prior planning or legislative decisions of which the District was aware in approving the project. Other documents influenced the expert advice provided to District staff or consultants, who then provided advice to the Board. For that reason, such documents form part of the underlying factual basis for the Board's decisions relating to the approval of the project.

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4 Findings Under CEQA

4.1 Purpose

California Public Resources Code, Section 21002, states that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” The same section states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 states that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects.”

California Public Resources Code, Section 21002, is implemented, in part, through the requirement that agencies adopt written Findings before approving projects (California Public Resources Code, Section 21081; CEQA Guidelines, Section 15091). Specifically, CEQA requires the District to make written findings of fact for each significant environmental impact identified in the Final EIR (CEQA Guidelines, Sections 15091, 21081).

In accordance with CEQA, the purpose of the Findings is to systematically restate the significant effects of the proposed project on the environment and to determine the feasibility of mitigation measures and alternatives identified in the Final EIR that would avoid or substantially lessen the significant effects. If significant impacts remain after application of all feasible mitigation measures, the District must review the alternatives identified in the Final EIR and determine if they are feasible. These Findings set forth the reasons and the evidence in support of the District’s determinations.

4.2 Terminology

A Finding is a written statement made by the District that explains how the District dealt with each significant impact and alternative identified in the Final EIR. Each Finding contains a conclusion regarding each significant impact, substantial evidence supporting the conclusion, and an explanation of how the substantial evidence supports the conclusion.

For each significant effect identified in the Final EIR, the District is required by CEQA Guidelines, Section 15091(a), to make a written Finding reaching one or more of the following conclusions:

1. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect, as identified in the final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make the mitigation measures or project alternatives identified in the final EIR infeasible.

A mitigation measure or an alternative is considered feasible if it is capable of being accomplished in a successful manner within a reasonable period of time, while taking into account economic, environmental, legal, social, and technological factors (California Public Resources Code, Section 21061.1; CEQA Guidelines, Section 15364; see also Citizens of Goleta Valley v. Board of Supervisors [Goleta II] [1990] 52 Cal.3d 553, 565).

The concept of feasibility also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project (City of Del Mar v. City of San Diego [1982] 133 Cal.App.3d 410, 417). “Feasibility under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors” (City of Del Mar v. City of San Diego [1982] 133 Cal.App.3d 410, 417; see also Sequoyah Hills Homeowners Assn. v. City of Oakland [1993] 23 Cal.App.4th 704, 715). Thus, “in the context of project approval, a public agency may find that an alternative is ‘infeasible’ if it determines, based upon the balancing of the statutory factors, that an alternative cannot meet project objectives or ‘is impractical or undesirable from a policy standpoint’” (Los Angeles Conservancy v. City of West Hollywood [2017] 18 Cal.App.5th 1031, 1041). Therefore, “broader considerations of policy thus come into play when the decision-making body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives” (California Native Plant Society v. City of Santa Cruz [2009] 177 Cal.App.4th 957, 1000).

CEQA also requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. The CEQA Guidelines do not define the difference between avoiding a significant environmental effect and substantially lessening such an effect. Therefore, the District must glean the meaning of these terms from other contexts in which the terms are used. California Public Resources Code, Section 21081, on which CEQA Guidelines, Section 15091 is based, uses the term “mitigate” rather than “substantially lessen;” therefore, the CEQA Guidelines equate mitigating with substantially lessening. Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects” (California Public Resources Code, Section 21002). For the purposes of these Findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level.

With respect to a project where significant impacts are not avoided or substantially lessened, either through the adoption of feasible mitigation measures or a feasible alternative, a public agency (after adopting proper Findings) may nevertheless approve the project if the agency adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s benefits rendered its unavoidable adverse environmental effects acceptable (CEQA Guidelines, Sections 15093, 15043(b); California Public Resources Code, Section 21081[b]). The California Supreme Court has stated that “the wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced” (Citizens of Goleta Valley v. Board of Supervisors [1990] 52 Cal.3d 553, 576).

A statement of overriding considerations is required for the approved project because, despite implementation of all feasible mitigation measures, the project as approved would have significant impacts on GHG emissions, noise, and transportation that could not be avoided or reduced to a level less than significant.

4.3 Legal Effect

To the extent that these Findings conclude that mitigation measures identified in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the District hereby binds itself and any other responsible parties to implement these mitigation measures. These Findings are not merely informational but constitute a binding set of obligations for the District and responsible parties, which take effect if and when the District adopts a resolution certifying the Final EIR and the District adopts resolutions approving the project.

4.4 Mitigation Monitoring and Reporting Program

Pursuant to Public Resources Code Section 21081.6, the District has adopted a detailed MMRP. The program is designed to ensure that all mitigation measures hereafter required are in fact implemented on a timely basis as the project is implemented. The program is set forth in the “Wetland Mitigation Bank at Pond 20 and PMPA Project MMRP,” which is adopted by the District concurrently with these Findings and is incorporated herein by this reference.

4.5 Certification of the Final EIR

Pursuant to CEQA Guidelines, Section 15090, the Board further finds and certifies the following:

1. The Final EIR has been completed in compliance with CEQA.
2. The Final EIR has been presented to the Board, which constitutes the decision-making body of the lead agency, and the Board has reviewed and considered the information contained in the Final EIR before approving the project.
3. The Final EIR reflects the District’s independent judgment and analysis.

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5 Findings of Significant Impacts, Required Mitigation Measures, and Supporting Facts

The proposed project would result in direct and indirect significant and potentially significant environmental effects with respect to aesthetics, biological resources, cultural resources, energy, geology and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, noise, transportation, tribal cultural resources, and utilities and service systems. These significant environmental effects and the mitigation measures identified to avoid or substantially lessen them are discussed in detail in the Final EIR Section 3.1, Aesthetics; Section 3.3, Biological Resources; Section 3.4, Cultural Resources; Section 3.5, Energy; Section 3.6, Geology and Soils; Section 3.7, Greenhouse Gas Emissions; Section 3.8, Hazards and Hazardous Materials; Section 3.9, Hydrology and Water Quality; Section 3.11, Noise; Section 3.13, Transportation; and Section 3.15, Utilities and Service Systems. A summary of significant impacts and mitigation measures for the project is included in the Final EIR Executive Summary.

Below are the Findings regarding the potential significant effects of the approved project. The Findings incorporate the discussion of potentially significant impacts and mitigation measures in the Final EIR.

5.1 Aesthetics

5.1.1 Light and Glare

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on aesthetic resources for the program-level PMPA for Parcels A, B, and C because future commercial development may introduce a new source of substantial light or glare if reflective building materials are used or nighttime lighting is implemented. Detailed information and analysis regarding this significant potential impact are provided in Section 3.2, Aesthetics, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.1, Aesthetics, of the Final EIR, the potentially significant impact on aesthetics from implementation of the PMPA for Parcels A, B, and C due to new sources of light or glare would be mitigated to a level less than significant with the implementation of Mitigation Measure (MM) AES-1 and AES-2. MM AES-1 would require incorporation of nonreflective and reduced glare building materials in the design of commercial development which would result in no new source of glare, and MM AES-2 would require any nighttime security lighting be shielded downward which would result in no new source of substantial light that would adversely affect nighttime views in the area.

MM AES-1 **Reduced Glare Building Materials.** The commercial development project proponent shall incorporate nonreflective or reduced glare building materials in the design of any structures proposed for development on Parcels A, B, and C consistent with applicable municipal codes. Any glass incorporated into the design shall either be low reflectivity or accompanied by a nonglare coating. Prior to building permits

being issued for construction, the District shall confirm reduced glare building materials are included on the appropriate building plans.

MM AES-2 **Shield or Downcast Nighttime Lighting.** The commercial development project proponent shall ensure that all nighttime lighting, either for nighttime construction or security lighting, shall be shielded downward to avoid any light spillover off site and lighting shall be limited to an amount required for safety of construction personnel and security of construction equipment.

5.2 Biological Resources

5.2.1 Special Status Species

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on special status species for both the wetland mitigation bank and the PMPA for Parcels A, B, and C. While no special status plant species have been observed in the project site, nine special status species, including one federally and state-listed endangered species, have the potential to occur within suitable habitat in the project site. Several federally and state-listed wildlife species are known to occur or have potential to occur within and adjacent to the proposed Bank Site, including Belding's savannah sparrow, California least tern, Ridgway's rail (light-footed), coastal California gnatcatcher, and western snowy plover. Implementation of the project has the potential to directly or indirectly impact suitable nesting or foraging habitat for these species. Detailed information and analysis regarding this potential significant impact are provided in Section 3.3, Biological Resources, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the wetland mitigation bank's potentially significant impact on special status species would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-2, MM BR-3, MM BR-4, MM BR-5, MM BR-6, MM BR-10, and MM HY-1. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the potentially significant impact on special status species from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-2, MM BR-3, MM BR-4, MM BR-5, MM BR-7, MM BR-8, and MM BR-10.

Implementation of MM BR-1 would require implementation of biological resource protection measures during construction, which would reduce impacts on special status plants and wildlife by requiring a range of measures, such as conducting Worker Environmental Awareness Program (WEAP) training to ensure contractors are made aware of and implement all compliance requirements; removing vegetation outside of bird nesting season to the extent feasible to avoid direct impacts on nesting adults or chicks; conducting preconstruction nesting surveys and implementing construction avoidance buffers as needed to avoid indirect impacts on special status avian species, such as nest abandonment or failure due to increased predation, noise, vibrations, or dust and interference with communication between adults and juveniles; and implementing BMPs to avoid introducing pollutants to adjacent ecosystems. Implementation of MM BR-2 would require preconstruction rare plant surveys,

which would identify target species that would need to be restored on site after construction or would require compensatory mitigation. Implementation of MM BR-3 would require restoration of temporary impacts, which would minimize long-term impacts on special status biological resources from temporary construction activities as well as minimizing potential indirect impacts from degraded habitat adjacent to suitable habitat. Implementation of MM BR-4 would require preconstruction avian surveys for federally and state-listed species to determine presence of these species and install appropriate nest avoidance buffers to avoid indirect impacts on special status avian species, such as nest abandonment or failure due to increased predation, noise, vibrations, or dust, and interference with communication between adults and juveniles. Implementation of MM BR-5 would require preconstruction surveys for burrowing owl to determine presence of the species and install appropriate buffers during construction. Implementation of MM BR-6 would require a long-term operations maintenance and management plan for the mitigation bank to minimize the introduction of invasive species, ensure BMPs are implemented during maintenance and monitoring visits so that active nests and special status species would not be disturbed, and to establish long-term performance standards and monitoring methodology to ensure long-term function of the wetland mitigation bank as necessary to sustain the special status species habitat. Implementation of MM BR-7 would require biological resource protection measures to be implemented during operations. Implementation of MM BR-8 would require wildlife surveys be conducted on Parcels A, B, and C prior to construction to determine the presence of species in order to avoid impacts or determine if compensatory mitigation would be required. Implementation of MM BR-10 would require compensatory mitigation to replace impacted suitable habitat for federally and state-listed species, as needed, and sustain the current distribution of sensitive habitat. Implementation of MM HY-1 would require a Bridge and Channel Scour Monitoring and Maintenance Program. In particular, the program would include habitat monitoring downstream of the project site where long-term scour may alter the channel width during operations; therefore, should loss of special status habitat occur, compensatory mitigation would be required.

MM BR-1 **Implement Biological Resource Protection Measures During Construction.** The District (or project proponent) shall implement the following BMPs during construction to minimize direct and indirect impacts on special status species and their habitats.

a) Prior to the commencement of construction, the District (or project proponent) shall designate a Project Biologist (a person with, at minimum, a bachelor's degree in biology, ecology, or environmental studies with familiarity with federally and/or state listed plant and wildlife species and other, nonlisted special status plant and wildlife species with the potential to be impacted by the project) who shall be responsible for overseeing compliance with the protective measures for biological resources identified herein during vegetation clearing and work activities within and abutting areas of native habitat. The Project Biologist shall be familiar with the local habitats, plants, and wildlife, and shall maintain communications with the contractor to ensure that issues relating to biological resources are appropriately managed. The Project Biologist may designate qualified biologists or biological monitors to help oversee project compliance or conduct the preconstruction surveys for special status species identified in MM BR-2, MM BR-4, and MM BR-8. These biologists shall have familiarity with the species for which they would be conducting preconstruction surveys or monitoring construction activities.

b) The Project Biologist or designated qualified biologist shall review final plans, designate areas not proposed for disturbance that need temporary fencing per subsection (h) below (e.g., sensitive habitat area [SHA] fencing), and monitor construction activities within and adjacent to areas with native vegetation communities or special status plant and wildlife species. The qualified biologist shall monitor activities during critical times such as vegetation removal, initial ground-disturbing activities, and the installation of BMPs and fencing to protect native species, and shall ensure that all wildlife and regulatory agency permit requirements, conservation measures, and general avoidance and minimization measures are properly implemented and followed. The qualified biologist shall monitor the SHA fencing and shall provide corrective measures to the contractor to ensure that the fencing is maintained throughout construction. The qualified biologist shall have the authority to stop work and redirect work if a special status wildlife species is encountered within the project area during construction until the Project Biologist or qualified biologist determine(s) that the animal would not be harmed (i.e., no ground disturbing activities are proposed within 100 feet) or it has left the construction area on its own. Also see subsection (e) below.

c) Prior to the start of construction, all project personnel and contractors who would be on site during construction shall complete mandatory training conducted by the Project Biologist or a designated qualified biologist. Any new project personnel or contractors that come on board after the initiation of construction shall also be required to complete the mandatory WEAP training prepared and conducted by the Project Biologist before they commence with work. The training shall advise workers of potential impacts on sensitive habitat and federally and/or state listed and other special status species and the potential penalties for impacts on such habitat and species. At a minimum, the training shall include the following topics: (1) occurrences of the special status species and sensitive vegetation communities in the project area (including vegetation communities subject to ACOE, California Department of Fish and Wildlife (CDFW), and RWQCB jurisdiction), (2) protective measures to be implemented in the field, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced areas to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); (3) the protocol to resolve conflicts that may arise at any time during the construction process; and (4) reporting requirements and procedures to follow should a federally and/or state listed species be encountered during construction.

d) The training program shall include color photos of federally and/or state listed species, other special status species, and sensitive vegetation communities. Following the education program, the photos shall be posted in the contractor and resident engineer's office where the photos shall remain throughout the duration of project construction. Photos of the habitat in which sensitive species are found shall be posted on site. The contractor shall be required to provide the District with evidence of the employee training (e.g., a sign-in sheet) on request.

   Project personnel and contractors shall be instructed to immediately notify the Project Biologist or designated biologist of any incidents that could affect sensitive vegetation communities or special status species. Incidents could

include fuel leaks or injury to any wildlife. The Project Biologist shall notify the District of any incident within 24 hours of being noticed.

e) Vegetation removal and initial ground disturbance shall occur outside of the bird nesting season (February 1 – September 15) if feasible. Should vegetation removal or initial ground disturbance be required during the bird nesting season, the Project Biologist must conduct a preconstruction nesting survey. Should active nests be present, a construction avoidance buffer of 300 feet is required until the young have fledged or the nest has failed naturally. The biologist may reduce the buffer if, in their professional judgment, topography or other factors mitigate potential impacts from construction vibration, noise, dust, and visual intrusion. For federally and state listed species, see MM BR-4.

f) The Project Biologist shall have the authority to halt work, and redirect work if necessary, to ensure the proper implementation of species and habitat protection. The Project Biologist shall report any noncompliance issues to the District within 24 hours of its occurrence.

g) The Project Biologist shall monitor the project site immediately prior to and during construction to identify the presence of invasive weeds and shall recommend measures to avoid their inadvertent spread in association with the project. All construction equipment shall be washed and cleaned of debris prior to entering the construction site to minimize the spread of invasive weeds.

h) All habitat regulated by CCC, ACOE, RWQCB, USFWS, National Marine Fisheries Service, and/or CDFW, and habitat with potential to support special status species outside of, and abutting, the designated project limits of disturbance shall be designated as SHAs on project maps. Prior to construction, the Contractor shall delineate the project limits, including construction, staging, lay-down, and equipment storage areas, and erect the construction boundary, with fencing or flagging, along the perimeter of the identified construction area to protect adjacent sensitive habitats and sensitive-plant populations. SHAs shall be clearly delineated with fencing or flagging or other BMPs prior to construction to inform construction personnel where the SHAs are located and shall be confirmed by the Project Biologist or designated biologist prior to construction. SHAs fencing may include orange plastic snow fence, orange silt fencing, or stakes and flagging in areas of flowing water. No personnel, equipment, or debris shall be allowed within the SHAs. Fences and flagging shall be installed by Contractor in a manner that does not impact habitats to be avoided and such that it is clearly visible to personnel on foot and operating heavy equipment. 10 days prior to initiating construction, the Contractor shall submit to the District final plans for initial clearing and grubbing project construction. These final plans shall include photographs that show the fenced and flagged environmentally SHAs limits and all areas to be impacted or avoided. If work occurs beyond the fenced or demarcated limits of impact, all work shall cease until the problem has been remedied. Temporary construction fences and markers shall be maintained in good repair by the Contractor during construction and shall be removed upon completion of project construction.

i) No work activities, materials or equipment storage, or access shall be permitted outside the project limits without permission from the District. All parking and equipment storage by the contractor related to the project shall be confined to the project limits. Contractor shall not conduct work in undisturbed areas and sensitive habitat outside and adjacent to the project limits shall not be used for parking or equipment storage. Project-related vehicle traffic shall be restricted to the project limits and established roads and construction access points.

j) Construction activities shall be limited to daylight hours to the extent feasible. If nighttime activities are unavoidable, then workers shall direct all lights for nighttime lighting into the work area and shall minimize the lighting of natural habitat areas adjacent to the work area. The contractor shall use light glare shields to reduce the extent of illumination into sensitive habitats. If the work area is located near surface waters, the lighting shall be shielded such that it does not shine directly into the water.

k) Clearing shall be confined to the minimal area necessary to facilitate construction activities. Cleared vegetation and spoils shall be disposed of daily at a permanent off-site spoils location or at a temporary on-site location that would not create habitat for special status wildlife species. Spoils and dredged material shall be disposed of at an approved site or facility in accordance with all applicable federal, state, and local regulations.

l) Food-related and other garbage shall be disposed of in wildlife-proof containers and shall be removed from the project area daily during the construction period. Vehicles carrying trash or hauling dirt/sediment shall be required to have loads covered and secured to prevent dirt, trash, and debris from falling onto roads and adjacent properties.

m) All construction equipment used for the project shall be maintained in accordance with manufacturer’s recommendations, and requirements and shall be maintained to comply with noise standards (e.g., exhaust mufflers, acoustically attenuating shields, shrouds, or enclosures).

n) The Contractor shall store all construction-related vehicles and equipment in the designated staging areas.

o) The Contractor shall avoid wildlife entrapment by completely covering or providing escape ramps for all excavated steep-walled holes or trenches more than 1 foot deep at the end of each construction workday. The qualified biologist shall inspect open trenches and holes and shall remove or release any trapped wildlife found in the trenches or holes prior to filling by the construction contractor

p) Special status wildlife can be attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar features; construction equipment; or construction debris left overnight in areas that may be occupied by special status species that could occupy such structures shall be inspected by a qualified biologist prior to being used for construction. Such inspections shall occur at the beginning of each day’s activities for those materials to be used or moved that day. If necessary, and under the direct supervision of the biologist, the structure may be moved up to one time to isolate it from construction activities, until the special status

species has moved from the structure of their own volition or has been captured and relocated.

q) The spread of dust from work sites to sensitive natural communities or sensitive-species habitats on adjacent lands shall be minimized by use of a water truck. Dirt access roads, haul roads, and spoils areas shall be watered to prevent the spread of dust. Follow a stormwater pollution prevention plan to reduce dust emissions.

r) The Contractor shall strictly limit their activities, vehicles, equipment, and construction materials to established roads and the project disturbance limits. Signs shall be posted within the staging area, nonpaved access routes, and project site with a maximum 15 mile per hour speed limit.

s) To prevent harassment, injury, or mortality of sensitive wildlife by dogs or cats, no canine or feline pets shall be permitted in the active construction area.

t) Plastic monofilament netting or similar material shall not be used for erosion control because smaller wildlife may become entangled or trapped in it. Acceptable substitutes include coconut coir matting or tackifier hydroseeding compounds. This limitation shall be communicated to the contractor through specifications or special provisions included in the construction bid solicitation package.

u) Pest and weed management shall be conducted in compliance with the District's Integrated Pest Management Plan.

v) Hazardous materials and equipment stored overnight, including small amounts of fuel to refuel hand-held equipment, shall be stored within secondary containment per the stormwater pollution prevention plan.

w) The Contractor shall be required to conduct vehicle refueling in upland areas where fuel cannot enter waters of the U.S. (WOUS) or waters of the state and in areas that do not have potential to support sensitive habitat or federally and/or state listed species. Any fuel containers, repair materials including creosote-treated wood, and/or stockpiled material that is left on site overnight shall be secured in secondary containment within the work area and staging/assembly area and covered with plastic at the end of each workday.

x) In the event that no activity is to occur in the work area for the weekend and/or a period of time greater than 48 hours, the Contractor shall ensure that all portable fuel containers are securely locked and/or removed from the project site.

y) Equipment and containers shall be inspected daily for leaks. Should a leak occur, contaminated soils and surfaces shall be cleaned up and disposed of following the guidelines identified in the stormwater pollution prevention plan, Materials Safety Data Sheets, and any specifications required by other permits issued for the project.

z) The Contractor shall utilize off-site maintenance and repair shops as much as possible for maintenance and repair of equipment.

aa) If maintenance of equipment must occur on site, fuel/oil pans, absorbent pads, or appropriate containment shall be used to capture spills/leaks within all areas. Where feasible, maintenance of equipment shall occur in upland areas where fuel cannot enter WOUS or waters of the state and environmentally SHAs.

MM BR-2 **Preconstruction Rare Plant Surveys.** Protocol rare plant surveys shall be conducted to locate special status plant species onsite prior to the start of construction. Should a significant population (>3 individuals) of the target species (estuary seablite, Pacific saltbush, Coulter's goldfields, Nuttall's acmispon, beach goldenaster, aphanisma, beach goldenaster, and Lewis' evening primrose) be identified, the District (or project proponent) shall collect seed from those individuals present within the impact areas and broadcast 50-percent of the seed in the appropriate restoration areas following soil preparation as supervised by a qualified Lead Biologist (Lead Biologist Minimum Qualifications: Bachelor's degree in Biology [or equivalent, such as a degree in Natural Resources] and a minimum of 5 years of restoration experience or equivalent, such as restoration certification and at least 12 semester units of botany course work or 100 hours of independent study with CNPS or other local botanical society, or 5+ years of seed collection and propagation experience with the target genera). Seeding shall be considered successful if the target species is observed at least twice over a 5-year period. Fifty-percent of the collected seed shall be stored by a reputable seed bank. Should the seeded areas not meet the performance criteria defined above, the District shall identify an appropriate off-site location to implement a germination and habitat suitability study. The study would review existing available literature and include methodology to test abiotic factors essential for growth of the target species, including, but not limited to, soil pH, permeability, slope, sun exposure, and rain fall frequency, duration, and distribution patterns. Metrics would include germination rates, survival rates, and productivity based upon seed or fruit set.

Should salt marsh bird's beak, a federally and state endangered species, be observed during preconstruction surveys and subject to direct impacts, a CDFW Section 2081 Incidental Take Permit is required. Compensatory mitigation for net loss of suitable habitat at a minimum of 1:1 establishment, enhancement or preservation and long-term management shall be required.

MM BR-3 **Restoration of Temporary Impacts.** To avoid or minimize the permanent loss or degradation of sensitive or special status habitat resulting from temporary project features, any areas that are temporarily disturbed shall be restored to preconstruction conditions and vegetated with appropriate native plant species once construction is complete. This includes potential impacts to seablite scrub, pickleweed mats, salt pan, and open water that are subject to regulation by CCC, ACOE, and RWQCB and may be subject to regulation by CDFW, as well as habitat with potential to support special status biological resources. To avoid or minimize any long-term impacts on habitat or vegetation, staging areas, access routes, and other temporarily disturbed areas shall be decompacted and recontoured to ensure proper site drainage and revegetated with appropriate native species at a 1:1 ratio. Any temporary equipment, structures, or utilities (e.g., water, power) installed at the project site shall be removed at the completion of construction. Any temporary disturbance lasting longer than 12 months shall be mitigated as detailed MM BR-10.

MM BR-4 **Preconstruction Surveys for Federally and State Listed Avian Species.** Initial clearing, ground disturbance, and other construction activities shall occur outside of the nesting bird season (i.e. outside of February 1 – September 15) to the maximum extent feasible. Should construction activities need to occur during the nesting bird season, prior to initiation of construction, a District -approved biologist shall:

a) Perform a minimum of three focused surveys, on separate days, to determine the presence of Ridgway's rail (light-footed), western snowy plover, coastal California gnatcatcher, California least tern, or Belding's savannah sparrow nest building activities, egg incubation activities, or brood rearing activities within 500 feet of project construction proposed during the nesting season that could impact these species. The surveys shall begin a maximum of 7 days prior to project construction and one survey shall be conducted the day immediately prior to the initiation of work. Additional surveys shall be done once a week during project construction in the nesting season. These additional surveys may be suspended once fledglings have left the nest or if noise at the edge of nesting habitat is less than 60 A-weighted decibels (dBA) equivalent sound level (L_{eq}) where the berm occurs between construction and nesting activities.

b) If an active Ridgway's rail (light-footed), western snowy plover, coastal California gnatcatcher, California least tern, or Belding's savannah sparrow nest is found within a minimum of 500 feet of project construction, the Biological Monitor shall report the nest(s) to the District. After initial identification of the nest, the biological monitor shall not approach within 25 feet of an active nest; nest monitoring shall occur with binoculars. Signage and SHA fencing shall be installed to deter people from entering any area with an active nest. Work within 500 feet of the active nest shall be halted. With USFWS (Ridgway's rail [light-footed], coastal California gnatcatcher, California least tern, or western snowy plover) or CDFW (Belding's savannah sparrow) approval, the buffer may be reduced to less than 500 feet based on species sensitivity, topography, noise/duration of construction activities, etc., to protect active nests. The District shall develop an Avoidance and Minimization Plan, including determining whether the existing berm provides adequate protection for the nest to reduce or eliminate the buffer and measures to minimize construction noise at the nest site if not (such as, installation of noise barriers and/or modification in quantity, location or type of equipment), a monitoring plan, and an adaptive management strategy and/or contingency options.

c) Preconstruction surveys will also be conducted for federally and state listed species when suitable habitat is proposed for removal outside of the breeding season. Should federally and state listed avian species be detected, vegetation removal shall be postponed until the species has left the work area, unless the necessary Incidental Take Permits have been issued. In the latter case, clearing would progress in compliance with all required Conservations Measures and Terms and Conditions.

MM BR-5 **Preconstruction Surveys for Burrowing Owl.** A preconstruction survey shall be conducted by a qualified biologist in accordance with the survey requirements detailed in the California Department of Fish and Game's March 7, 2012, Staff Report on Burrowing Owl no less than 14 days before initial ground-disturbing activities

(California Department of Fish and Game 2012). Any active burrow found during preconstruction survey efforts shall be mapped and provided to the construction foreman. If no active burrows are found, no further mitigation shall be required.

A construction avoidance buffer shall be placed around occupied burrows. Recommended buffer distances are based on time of year and level of disturbance:

- April 1 – August 15: Low disturbance 656 feet, medium and high disturbance 1,640 feet
- August 16 – October 15: Low and medium disturbance 656 feet, high disturbance 1,640 feet
- October 16 – March 31: Low disturbance 164 feet, medium disturbance 328 feet, high disturbance 1,640 feet

If avoidance of impacts to occupied burrows is not practicable, the District shall create a Burrow Exclusion Plan that will be approved by CDFW. The plan shall follow Appendix E of the 2012 CDFW Burrowing Owl Mitigation Staff Report. Relocation shall be implemented only during the nonbreeding season by a qualified biologist. Owls shall be excluded from burrows in the immediate impact zone by installing one-way doors in burrow entrances. One-way doors shall be left in place for 48 hours to ensure owls have left the burrow before excavation.

MM BR-6 **Implement Long-Term Operations Maintenance and Management Plan.** A Long-Term Management/Operations and Maintenance Plan shall be prepared and implemented. The plan shall address maintenance activities, associated minimization measures, monitoring requirements and adaptive management strategies to be implemented after the site has met its 5th-year performance criteria and been accepted by the agencies. The Long Term Operations and Maintenance Management Plan shall include measures to minimize the potential introduction of invasive species during maintenance activities including, but not limited to: washing all equipment prior to entering the site from another location, removing invasive species before seeding to the maximum extent feasible, collecting all plant material removed during maintenance securely, such as in a burlap bag, and removing from the site. The plan shall prohibit the use of pesticides or herbicides with potential toxicity to aquatic or terrestrial wildlife species. Maintenance and trash/debris removal shall be conducted outside of the bird nesting season (February 1 – September 15) to the maximum extent feasible. If maintenance must occur during the nesting season, a qualified biologist shall conduct preconstruction nesting bird surveys and direct maintenance staff to areas not occupied by nesting birds. The plan shall include contingency erosion control BMPs should they be needed following especially large storms. Should supplemental planting be required, all container stock shall be certified pest free and inspected for pests prior to being unloaded on site. At a minimum, the plan shall include biannual inspections for invasive species cover, fence inspection, vandalism, and illegal dumping. The plan shall include long-term performance criteria to include, at a minimum, no perennial invasive species (ranked by California Invasive Plant Council as moderate to high) and less than 5 percent annual invasive species relative cover. An assessment of habitat function shall be conducted every 10 years. At a minimum, the assessment shall include a wildlife use assessment and an assessment of nonnative vegetative

cover. The Final Monitoring Report upon which all signatory agencies accept the mitigation site as complete shall serve as the baseline conditions for long-term monitoring. Contingency measures such as supplemental weeding, planting, grading, and erosion control shall be included in the plan. A threshold for implementing contingency measures, such as assessment results with no more than -10 percent deviation from baseline shall be included.

MM BR-7 **Implement Biological Resource Protection Measures During Operations for Parcels A, B, and C.** To avoid or minimize potential operations impacts on biological resources resulting from development of Parcels A, B, and C, the following measures shall be implemented, as applicable based on project-specific designs:

a) Landscape plans shall not include the use of plant species considered invasive by California Invasive Plant Council. All plant species specified in the landscape plans shall be certified free of pests, including plant pathogens.

b) Light glare shields shall be included in the project design to reduce the extent of illumination into sensitive habitats. If lighting is located near surface waters, it shall be shielded such that it does not shine directly into the water.

c) Masonry block walls or equivalent shall be erected around the perimeter of the project area to prevent domestic pets or other animals that could harm biological resources in adjacent habitats.

d) The commercial development project proponent shall ensure operation noise levels are kept below 60 dBA Leq at the margin of the nearest occupied breeding habitat for state or federally listed species.

e) The commercial development project proponent shall design the project such than no stormwater runoff shall enter adjacent native habitat areas. All stormwater runoff shall be channeled into storm drains.

MM BR-8 **Wildlife Surveys for Parcels A, B, and C.** The District (or project proponent) shall conduct nesting season (February 1 – September 15) surveys on Parcel A for Belding's savannah sparrow, Ridgway's rail (light-footed), western snowy plover, California least tern, and burrowing owl; on Parcel B for Belding's savannah sparrow, Ridgway's rail light-footed, and burrowing owl; and on Parcel C for burrowing owl prior to project initiation. If no special status wildlife species are present, no further mitigation shall be required.

Should occupied Belding's savannah sparrow, Ridgway's rail, western snowy plover, or California least tern habitat be proposed for permanent impact, the District shall provide compensatory mitigation as detailed in MM BR-10. See MM BR-5 for details regarding burrowing owl monitoring and mitigation.

MM BR-10 **Compensatory Mitigation for Impacts on Special Status Biological Resources.**

a) Should the project result in a loss of WOUS, CCC wetland, or CDFW regulated streambed, the District shall provide compensatory mitigation for the loss of regulated waters or streambed at a minimum 1:1 ratio. Compensatory mitigation shall consist of establishment to ensure no loss of aquatic function.

The compensatory mitigation ratios provided herein for direct impacts on regulated aquatic resources represent the minimum required to ensure no net loss of aquatic

function following project implementation. Final compensatory mitigation programs will be determined in consultation with ACOE, RWQCB, CCC and/or CDFW during their respective permitting processes.

b) Should the project result in a loss of Menzie's goldenbush scrub, or suitable habitat for Belding's savannah sparrow, Ridgway's rail (light-footed), California gnatcatcher, western snowy plover or California least tern, the District shall provide establishment within the Bank Site at a minimum 1:1 mitigation ratio to ensure no net loss of Menzie's goldenbush scrub or habitat for these species.

c) Should the Bank Site not provide sufficient habitat to provide a minimum 1:1 mitigation ratio for net loss of habitat for any of these species, the balance of the mitigation shall be provided through a combination of establishment, enhancement or preservation and long term management to provide for no net loss of habitat function.

The compensatory mitigation ratios provided herein for loss of the above habitats represent the minimum required to ensure no net loss habitat following project completion. Final compensatory mitigation programs will be determined in consultation with USFWS and CDFW as applicable.

MM HY-1 **Bridge and Channel Scour Monitoring and Maintenance.** See Section 5.8.1 for details.

5.2.2 Riparian Habitat or Other Sensitive Natural Communities

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on riparian habitat or other sensitive natural communities for both the wetland mitigation bank and the PMPA for Parcels A, B, and C. While there are no vegetation communities with a sensitive state rank or USFWS-designated critical habitat occur within the project study area, several habitats within the project site have potential to support special status species. Additionally, subtidal open water habitat located at the berm breach site is regulated as coastal wetland by CCC and designated essential fish habitat by National Marine Fisheries Service. The project has the potential to directly or indirectly impact sensitive natural communities. Detailed information and analysis regarding this potential significant impact are provided in Section 3.3, Biological Resources, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the wetland mitigation bank's potentially significant impact on riparian habitat or other sensitive natural communities would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-3, MM BR-9, MM BR-10, and MM HY-1. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the potentially significant impact on riparian habitat or other sensitive natural communities from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM BR-1 and MM BR-7.

Implementation of MM BR-1 would require implementation of biological resource protection measures during construction, which would reduce impacts on special status plants and wildlife by requiring a range of measures, such as WEAP training to ensure contractors are made aware of and implement all compliance requirements; installing temporary fencing to minimize the potential for unintentional incursions into adjacent habitat; and implementing BMPs to avoid introducing pollutants to adjacent ecosystems. Implementation of MM BR-3 would require restoration of temporary impacts, which would minimize long-term impacts on special status biological resources from temporary construction activities as well as minimizing potential indirect impacts from degraded habitat adjacent to suitable habitat. Implementation of MM BR-7 would require biological resource protection measures to be implemented during operations to minimize and avoid potential indirect impacts from operations on adjacent special status habitats and species. Implementation of MM BR-9 would require preconstruction eelgrass surveys to determine presence, and if eelgrass is present, then mitigation as required by the California Eelgrass Mitigation Policy would occur to ensure no long-term net loss if the project results in the loss of eelgrass habitat. Implementation of MM BR-10 would require compensatory mitigation for impacts on WOUS, CCC wetlands, and CDFW-regulated streambed, which would ensure no loss of aquatic function. Implementation of MM HY-1 would require bridge and channel scour monitoring and maintenance. In particular the program would include habitat monitoring downstream of the project site where long-term scour may alter the channel width during operations; therefore, should loss of special status habitat occur, compensatory mitigation would be required.

MM BR-1 **Implement Biological Resource Protection Measures During Construction.**

MM BR-3 **Restoration of Temporary Impacts.**

MM BR-7 **Implement Biological Resource Protection Measures During Operations for Parcels A, B, and C.**

MM BR-9 **Berm Breach Site – Pre- and Post-Construction Eelgrass Surveys.** Eelgrass (*Zostera* spp.) surveys, consistent with the requirements outlined in the 2014 California Eelgrass Mitigation Policy, shall be conducted to detect any impacts on eelgrass as a result of breaching the berm to open the Bank Site to tidal influence. Surveys shall be conducted prior to breaching the berm. If the pre-construction survey shows no eelgrass is present, no post construction survey and no further surveys or mitigation shall be required. If eelgrass is present a post-construction survey shall be conducted within 30 days following completion of breach construction. If impacts on eelgrass from implementation of the proposed project are identified, mitigation for eelgrass impacts shall be at a ratio of no less than 1.2:1, as required by the California Eelgrass Mitigation Policy. Mitigation shall commence within 135 days of any noted impacts on eelgrass, such that mitigation commences within the same eelgrass growing season that impacts occur if feasible.

MM BR-10 **Compensatory Mitigation for Impacts on Special Status Biological Resources.**

MM HY-1 **Bridge and Channel Scour Monitoring and Maintenance.** See Section 5.8.1 for details.

5.2.3 State or Federally Protected Wetlands

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on state or federally protected wetlands for both the wetland mitigation bank and the PMPA for Parcels A, B, and C. WOUS, waters of the state, CDFW-regulated streambeds, or CCC wetlands occur within the berm breach site, Parcel A, and Parcel C. Direct or indirect impacts on WOUS, CDFW-regulated streambed, or CCC wetland would be significant. Detailed information and analysis regarding this potential significant impact are provided in Section 3.3, Biological Resources, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the wetland mitigation bank's potentially significant impact on federally or state-protected wetlands would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-3, MM BR-6, MM BR-10, and MM HY-1. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the potentially significant impact on federally or state-protected wetlands from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-3, MM BR-7, and MM BR-10.

Implementation of MM BR-1 would require implementation of biological resource protection measures during construction, which would reduce impacts on special status plants and wildlife by requiring a range of measures, such as WEAP training to ensure contractors are made aware of and implement all compliance requirements; installing temporary fencing to minimize the potential for unintentional incursions into adjacent habitat; and implementing BMPs to avoid introducing pollutants to adjacent ecosystems. Implementation of MM BR-3 would require restoration of temporary impacts, which would minimize degradation of water quality that could result from erosion of exposed soil surfaces, as well as minimizing potential indirect impacts from degraded habitat adjacent to WOUS, CDFW-regulated streambed, or CCC wetland, such as the introduction of invasive species. Implementation of MM BR-6 would require a long-term operations maintenance and management plan to minimize the introduction of invasive species, ensure BMPs are implemented during maintenance and monitoring visits so that active nests and special status species would not be disturbed, and to establish long-term performance standards and monitoring methodology to ensure long-term function of the wetland mitigation bank, as necessary, to sustain the habitat described herein. Implementation of MM BR-7 would require biological resource protection measures to be implemented during operations. Implementation of MM BR-10 would require compensatory mitigation for impacts on WOUS, CCC wetlands, and CDFW-regulated streambed. Implementation of MM HY-1 would require a Bridge and Channel Scour Monitoring and Maintenance Program. In particular, the program would include habitat monitoring downstream of the project site where long-term scour may alter the channel width during operations; therefore, should loss of special status habitat occur, compensatory mitigation would be required.

MM BR-1 Implement Biological Resource Protection Measures During Construction.

MM BR-3 Restoration of Temporary Impacts.

MM BR-6 Implement Long-Term Operations Maintenance and Management Plan.

MM BR-7 **Implement Biological Resource Protection Measures During Operations for Parcels A, B, And C.**

MM BR-10 **Compensatory Mitigation for Impacts on Special Status Biological Resources.**

MM HY-1 **Bridge and Channel Scour Monitoring and Maintenance.** See Section 5.8.1 for details.

5.3 Cultural Resources

5.3.1 Historical Resources

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on historical resources for both the wetland mitigation bank and the PMPA for Parcels A, B, and C in that archaeological sites CA-SDI-4360 and CA-SDI-19712 and the Western Salt Company Salt Works may be destroyed or altered. These resources are considered a historic resource under CEQA, and destruction or alteration of these resources is considered a significant impact. Detailed information and analysis regarding this potential significant impact are provided in Section 3.4, Cultural Resources, in the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the wetland mitigation bank's potentially significant impact on historical resources would be mitigated to a level less than significant with the implementation of MM CR-1 and MM CR-2. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the potentially significant impact on historical resources from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM CR-1. Implementation of MM CR-1 would reduce impacts on archaeological sites CA-SDI-4360 and CA-SDI-19712 from destruction or alteration of potentially significant subsurface archaeological deposits through the recovery of scientifically consequential information from and about historical resources. Implementation of MM CR-2 would reduce impacts on the Western Salt Company Salt Works historic resource by requiring documentation of Pond 20 and development of educational materials prior to construction.

MM CR-1 **Preparation of a Cultural Resource Mitigation and Management Plan.** Prior to commencement of any ground-disturbing activities but no sooner than 90 percent design completion, the District shall contract a qualified archaeologist who is a member of the Register of Professional Archaeologists and meets the Secretary of Interior's (SOI) Professional Qualification Standards for Archaeology (36 Code of Federal Regulations 61, Appendix A) to develop a Cultural Resource Mitigation and Monitoring Plan (CRMMP).

The CRMMP shall serve to guide the identification, evaluation, and data recovery of all known and unknown archaeological historical resources in the project site. The overall performance goals of the three phases of archaeological activities to be outlined in the CRMMP are:

a) ***Identification:*** Archaeological testing, guided by an explicit sampling strategy, shall be carried out to identify any intact buried archaeological deposits within the horizontal and vertical extents of project-related disturbance.

b) ***Evaluation:*** Any intact buried archaeological deposits identified shall be evaluated according to specific thresholds of significance for their potential to yield scientifically consequential information.

c) ***Data Recovery:*** Any deposits determined to contain scientifically consequential information shall be analyzed and documented following defined methods and objectives in order to recover and preserve the scientifically consequential information they contain.

The CRMMP shall be consistent with the SOI's Standards and Guidelines for Archaeology and Historic Preservation (48 *Federal Register* [FR] 44716–44740), the California Office of Historic Preservation's Archaeological Resource Management Reports: Recommended Contents and Format (1990), Guidelines for Archaeological Research Designs (1991), and Guidelines for the Curation of Archaeological Collections (1993), and the Advisory Council on Historic Preservation's Treatment of Archaeological Properties: A Handbook (1980).

The CRMMP shall include, at a minimum, the following items:

- ***Historic Context:*** Based on the relevant sections of the *Cultural Resource Technical Report*, the District's qualified archaeologist shall prepare a comprehensive historic context for the study area and the surrounding region. The historic context shall conform with guidance from the SOI's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44718-44719):
    - Identify the concept, time period, and geographical limits for the historic context
    - Assemble the existing information about the historic context
    - Synthesize information
    - Define property types
        - Identify property types
        - Characterize the locational patterns of property types
        - Characterize the current condition of property types
    - Identify information needs

Specific research topics for the historic context should include attempts to identify further evidence related to the association of CA-SDI-19712 with the Kumeyaay village of La Punta and the Kumeyaay revolt of 1775, as well as a synthesis of comparative regional data from coastal habitation sites dating to the San Dieguito and La Jolla periods to aid in contextualizing the prehistoric occupation of CA-SDI-4360.

- ***Research Design:*** The CRMMP shall include an explicit statement of theoretical and methodological approaches to be followed in the identification, evaluation, and data recovery of archaeological resources. Following the Office of Historic

Preservation's *Archaeological Resource Management Reports: Recommended Contents and Format* (1990), appropriate research designs shall:

A. Discuss the theoretical basis of the proposed research;

B. Summarize previous research;

C. Present testable hypotheses or state the goals of the research; and

D. Identify the test implications of the hypotheses.

Pursuant to the SOI's Standards for Archaeological Documentation (48 FR 44734–44737), the research design shall draw upon the historic context to identify:

- Evaluated significance of the properties to be studied;
- Research problems or other issues relevant to the significance of the property;
- Prior research on the topic and property type; and how the proposed documentation objectives are related to previous research and existing knowledge;
- The amount and kinds of information (data) required to address the documentation objectives and to make reliable statements including at what point information is redundant and documentation efforts have reached a point of diminishing returns; and
- Methods to be used to find the information.

Pursuant to the SOI's Standards, the research design shall explicitly identify the archaeological data classes that are required to address the specified documentation objectives. Consistent with the information needs identified in the historic context, the research design shall provide thresholds for determining the point at which further data recovery and documentation fail to improve the usefulness of the archeological information being recovered (48 FR 44735).

- ***Methods:*** The CRMMP shall include specific field and laboratory methodologies for the identification, evaluation, and data recovery of archaeological resources. Because all archaeological excavation is by nature destructive, field methods shall be developed once project design has reached 90 percent completion and shall be reviewed upon submittal of final design, in order to avoid unnecessary impacts on archaeological resources in areas that would not be affected by the project, per CEQA Guidelines Section 15162.4(b)(3).
  - *Identification and Evaluation:* The final grading and construction plans shall be reviewed to determine the precise horizontal and vertical extents of ground-disturbing activities. Based on this information, the District's qualified archaeologist shall develop an archaeological testing and evaluation plan with the stated objective of identifying any intact buried archaeological deposits within the project's limits of disturbance and determining their significance in accordance with the California Register of Historical Resources criteria (14 CCR 4852[b]). Per the SOI's Standards and Guidelines for Identification and Evaluation (48 FR 44720–44726), the

testing plan should include methods appropriate for the environmental and cultural context of the area under study, as well as expected results and reasons for those expectations. Identification and evaluation Methods for identification and evaluation shall include the following:

- Mapping and site gridding;
- Full-coverage site survey with point-plotting of surface artifacts;
- Placement of shovel test pits, auger units, test units, or mechanically excavated trenches, guided by an explicit sampling strategy, not to exceed the extents of proposed disturbance in any given location;
- Recording procedures for documenting the results of the excavations, including soil matrix descriptions, artifact types and classifications;
- Procedures for in-field recordation of artifacts and features based on type, including prescriptive standards for measurement, description, documentation of stratigraphic context, and photographic documentation;
- Specific methodologies and thresholds for determining the integrity of deposits and expected feature types (e.g., shell midden deposits, hearths, occupational deposits) and their potential to yield scientifically consequential data;
- Explicit methods for estimating the spatial extent of intact buried deposits identified based on the results of test excavations; and
- An artifact disposition policy, stating that only artifacts associated with features and deposits determined to be significant shall be collected for laboratory analysis. All other artifacts shall be recorded in the field and reburied in the unit where they were recovered.

- *Data Recovery:* The CRMMP shall include a treatment plan for recovering and preserving scientifically consequential data from intact archaeological deposits identified during the testing and evaluation phase that are determined to be significant according to the criteria set forth in the research design. Following the guidelines provided in the Advisory Council on Historic Preservation's *Treatment of Archaeological Properties: A Handbook* (1980), the data recovery plan shall employ methods that shall ensure full, clear, and accurate descriptions of all field operations and observations. Excavation techniques, recording methods, stratigraphic and associational relationships, environmental relationships, and analytical techniques shall be described, insofar as is feasible, in such a way as to allow future researchers to reconstruct what was done, what was observed, and why. To the extent feasible, the methods shall take into account the possibility that future researchers would need to use the recovered data to address problems not recognized at the time the data were recovered. Per the SOI's Standards and Guidelines for Archaeological Documentation (48 FR 44734–44737), the archaeological data recovery plan shall include an explicit statement of objectives and methods that responds to needs identified in the research design. The methods and techniques chosen for archeological

documentation shall be the most effective, least destructive, most efficient, and economical means of obtaining the needed information.

The data recovery plan shall include the following:

- Explicit descriptive statements of and justification for field study techniques.
- A discussion of expected feature types and associated techniques for excavation, recordation, and analysis.
- Specific thresholds for determining the level of effort necessary to achieve successful data recovery, based on the estimated spatial extent of intact buried deposits identified in the previous phase. Thresholds shall be tailored to specific deposit and feature types. For instance, the recovery of consequential archaeological data from a small hearth may be considered successful upon excavation of half of the feature by volume. Larger and more complex deposits and features may require an explicit sampling strategy. In all cases, recovery thresholds shall be formulated based on the data needs identified in the research design and adequate justification shall be provided.
- Recording procedures for documenting the results of the excavations, including soil matrix descriptions, artifact types and classifications.
- Procedures for in-field recordation of artifacts and features based on type, including prescriptive standards for measurement, description, documentation of stratigraphic context, and photographic documentation.
- Procedures for recovering samples of soil matrix for specialized analysis (e.g., pollen analysis, phytolith analysis, and flotation for macro-botanical remains and fish scales and otoliths), samples of organic materials for radiocarbon dating, as well as other elemental or chemical analyses.
- Laboratory procedures for the initial processing and subsequent analysis of recovered materials, based on the objectives identified in the research design.
- An artifact disposition policy, providing criteria and procedures for determining the disposition of artifacts once laboratory analysis is concluded. Artifact curation and discard principles shall be organized under three considerations: research values, practicality, and education potential. Artifacts that meet the discard criteria (e.g., lack of long-term research value, poor archaeological context, poor condition, lack of education potential) shall be reburied at a specified location in the project site.

All archaeological units for identification, evaluation, and data recovery shall be excavated in 10-centimeter levels. Sediments removed shall be dry-sifted through 1/8-inch mesh screens. Screening shall be conducted over plastic sheeting (tarps) to reduce environmental damage, prevent contamination of the site’s surface deposit, and expedite the backfilling process. Testing data, which

includes depth, soil descriptions, soil type and consistency, stratigraphy, and artifact type and material, shall be recorded on standardized forms. Unit form templates shall be included in the CRMMP.

Unit locations, features, surface finds, and other spatial data shall be controlled with reference to the Universal Transverse Mercator grid superimposed on aerial photographs rendered by a geographical information system. Data points to be mapped shall be collected with a global positioning system unit with submeter accuracy.

Artifacts from each field excavation provenience shall be measured, photographed, and recorded on the standardized unit forms. If paleontological resources are encountered, they shall be noted and mapped, but shall not be part of the analysis unless it is clear they are associated with a cultural context.

All artifacts from surface collections and excavations shall be collected, with the exception of fire-affected rock, which shall be counted, weighed, and reburied in the excavation unit.

All collected artifacts shall be analyzed using the lab methods outlined in the CRMMP. Native American cultural materials shall be classified into one of 12 categories: core, debitage, flaked-stone tool, cobble/percussion tool, ground stone, ceramic, modified bone, modified shell, and miscellaneous items. Recovered ecofacts (unmodified bone and shell specimens) shall be cataloged by faunal class. Historical items shall be identified as specifically as possible, and study beyond simple identification would not be undertaken unless particular items appear to date to the ethnohistoric or Early Historic period.

- ***Archaeological Reporting:*** The CRMMP shall set forth the requirements for reporting. All reports shall be prepared in accordance with the guidelines established by the Secretary of the Interior's Standards for Archaeological Documentation (48 FR 44734–44737) and the Office of Historic Preservation's *Archaeological Resource Management Reports: Recommended Contents and Format* (1990) and shall be submitted to the District and the South Coast Information Center.
    - *Testing, Evaluation, and Data Recovery Reports:* Upon completion of each phase of archaeological testing evaluation, and data recovery, the District's qualified archaeologist shall document the results in a report. These documents shall summarize the testing and evaluation efforts and data recovery results by each area or feature that undergoes data recovery.
    - *Archaeological Monitoring Report:* Upon completion of grading and excavation activities, the District's qualified archaeologist shall prepare a written report detailing monitoring activities performed at archaeological sites CA-SDI-4360 and CA-SDI-19712 and at any other previously undiscovered archaeological site, including the methodology and results of off-site screening of sediment, in the event it is necessary. The report shall include the results of the fieldwork and all appropriate laboratory and analytical studies that were performed in conjunction with excavations.

- ***Curation of Archaeological Collections:*** Archaeological collections comprise several components, including artifacts, environmental and dating samples, field documentation, laboratory documentation, photographic records, related historical documents, and reports. The District's qualified archaeologist shall prepare a plan for curating all artifacts, notes, photographs, and materials recovered during identification, evaluation, data recovery, and monitoring. Artifacts to be curated shall include all those that were not discarded pursuant to the artifact disposition policy. The curation plan shall be consistent with the Office of Historic Preservation's *Guidelines for the Curation of Archaeological Collections* (1993). Curation of artifacts and materials recovered from archaeological investigations requires a formal agreement between the District and a certified curation facility, which shall be initiated prior to undertaking archaeological fieldwork.

  All materials that are to be curated shall be placed in archival quality, long-term storage packing materials, including acid-free, lignin-free boxes and inert polyethylene bags. The District shall also curate records prepared or assembled in connection with the project, including field notes, drawings, photographs, maps, special studies, and final reports. After completion of laboratory analyses and the production of the final reports, the collection shall be transported to the designated curation facility where it shall be available for study by researchers.

- ***Personnel and Qualifications:*** The CRMMP shall include a discussion of roles and required qualifications for personnel conducting archaeological testing, evaluation, data recovery, and monitoring. All qualifications shall be verified by the District prior to conducting work for the project. All procedures required by this mitigation measure shall be carried out by, or under the direct supervision of, persons who meet, at a minimum, the SOI's Professional Qualifications Standards for Archaeology (48 FR 44739) and are members of the Register of Professional Archaeologists.

  The CRMMP shall outline the requirements and responsibilities for each role, including identifying which personnel shall have the authority to issue stop-work orders during construction and who is responsible for initiating notification procedures in the event of an unanticipated discovery.

- ***Measures for Protecting Cultural Resources*****:** The CRMMP shall include the following measures designed to minimize harm to portions of archaeological sites both within and outside the project's limits of disturbance during construction:

  - *WEAP Training:* The District's qualified archaeologist shall prepare a cultural resource-focused WEAP training that shall be given to all ground-disturbing construction personnel to minimize harm to known and unknown archaeological resources. Topics to be included for WEAP training shall be identified in the CRMMP. All site workers shall be required to complete the WEAP training with a focus on cultural resources, including education on the consequences of unauthorized collection of artifacts and a review of discovery protocol. The WEAP training shall also explain the requirements

of mitigation measures to be implemented during ground-disturbing activities.

- *Delineation of Work Limits*: Prior to construction, the project work limits in the vicinity of previously recorded resources CA-SDI-4360 and CA-SDI-19712 shall be delineated with environmentally sensitive area fencing in order to protect these areas from unnecessary impacts.
- *Archaeological Monitoring:* The District shall retain archaeological monitors to observe all project-related ground-disturbing activities. The CRMMP shall specify monitoring locations and protocols based on proposed construction activities and the results of archaeological identification, evaluation, and data recovery. In areas where archaeological deposits were not identified or were determined to be disturbed, a single monitor shall be able to observe two or more construction locations or activities within a reasonable walking distance of each other. In areas where intact archaeological deposits were identified, even if they were subject to data recovery, one monitor per location or activity shall be required.

  The monitors shall be supervised by a qualified archaeologist who meets the SOI's Professional Qualification Standards for Archaeology (48 FR 44739) and has regional experience in prehistoric archaeology. The CRMMP shall rely on Occupational Safety and Health Administration-qualified determinations in regard to the safety of monitoring locations.

  The CRMMP shall include a plan for sampling and off-site visual observation and screening of sediment removed during excavation in the event that on-site monitoring of excavations is unfeasible due to safety considerations. Based on the research design, an appropriate sampling strategy shall be laid out, specifying the relative proportion of sediment to be sampled, protocols for coordinating with construction crews, location where spoils shall be deposited, and procedures for observation, screening, and documentation. In determining sampling protocols, the plan shall consider the archaeological sensitivity of the location from which the sediment has been removed. In areas where archaeological deposits were not identified or were determined to be disturbed, visual observation of a small sample of the spoils (less than 5 percent) shall be required. In areas where intact archaeological deposits were identified, even if they were subject to data recovery, visual observation of a larger sample of the spoils (approximately 20 percent) and screening of a subset of this sample (approximately 5 percent) shall be required.
- *Unanticipated Discovery Protocol*: As required by Section 15064.5(f) of the CEQA Guidelines, the CRMMP shall include provisions for historical or unique archaeological resources accidentally discovered during construction. If cultural materials are discovered during construction, all ground disturbance within a 100-foot-wide buffer of the immediate discovery area shall temporarily cease until the District's qualified archaeologist can assess the nature and significance of the find. If the feature or deposit appears to be intact, it shall be evaluated according to the procedures detailed in the archaeological testing and evaluation plan and the District

shall be immediately notified. If the feature or deposit is determined to be significant, the procedures outlined in the data recovery plan shall be implemented.

- ***Native American Cultural Patrimony:*** In the event of the discovery, during any stage of archaeological research or construction, of objects or features with cultural value to descendant communities, including Native American burial remains, associated and unassociated funerary objects, sacred objects, and other cultural patrimony, all ground-disturbing activities in the vicinity of the discovery shall cease immediately. In case isolated objects are encountered in disturbed stratigraphic contexts, the Native American monitor shall be consulted to ensure appropriate treatment or disposition of the objects (per MM CR-4). In case intact deposits are encountered that may reasonably indicate the presence of burial features or human remains, a 100-foot-wide buffer shall be established around the find to secure it from further disturbance and all applicable protocols shall be followed in accordance with MM CR-3.

MM CR-2 **Documentation of Pond 20 to Historic American Landscape Survey Standards and Development of Educational Display.** Prior to commencement of any ground-disturbing activities within the Wetland Mitigation Bank Parcel, the District shall supplement the existing Historic American Landscapes Survey documentation of the Western Salt Company Salt Works District (USFWS 2001) with additional research, field recordation, and photographic documentation of Pond 20A to Historic American Landscapes Survey standards. Further documentation of Pond 20A shall include: (1) large-format photographic recordation of views of the setting and character-defining features of the portion of Pond 20A within the project site, including levees, channels, secondary berms delimiting individual ponds, and wooden post-and-plank features; (2) preparation of a detailed plan of the historical features of Pond 20A based on field recordation; (3) a detailed historical narrative report; and (4) compilation of historical research, photographs, and maps. The documentation shall be completed by a qualified historian or architectural historian who meets the Secretary of the Interior's Professional Qualification Standards for History or Architectural History. The archival documentation shall be donated to a suitable repository, such as the San Diego History Center, and copies shall be provided to local historical organizations, such as the South Bay Historical Society. Because creation of the Wetland Mitigation Bank Parcel would alter or destroy some of the existing features of Pond 20A that are representative of past salt works activities (while retaining others, such as the surrounding berm), the District shall design, fabricate, and install an educational display based on archival documentation. The educational display shall include two interpretive panels with historical photographs, maps, and narrative text demonstrating the history of the salt pond and its past use, to be placed in public view at suitable locations at the southern (along Palm Avenue) and western (adjacent to the 13th Street parking lot) boundaries of the project site. The panels shall include information directing viewers to a website, to be designed, prepared, and maintained by the District, providing further historical narratives, photographs, and maps based on archival documentation.

5.3.2 Archaeological Resources

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on archaeological resources for both the wetland mitigation bank and the PMPA for Parcels A, B, and C in that archaeological sites CA-SDI-4360 and CA-SDI-19712 may be destroyed or altered. These resources are considered an archaeological resource under CEQA, and destruction or alteration of these resources is considered a significant impact. Detailed information and analysis regarding this potential significant impact are provided in Section 3.4, Cultural Resources, in the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the wetland mitigation bank's potentially significant impact on archaeological resources would be mitigated to a level less than significant with the implementation of MM CR-1. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the potentially significant impact on archaeological resources from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM CR-1. Implementation of MM CR-1 would reduce impacts on archaeological sites CA-SDI-4360 and CA-SDI-19712 from destruction or alteration of potentially significant subsurface archaeological deposits through the recovery of scientifically consequential information from and about historical resources.

MM CR-1 Preparation of a Cultural Resource Mitigation and Management Plan.

5.3.3 Human Remains

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on human remains for both the wetland mitigation bank and the PMPA for Parcels A, B, and C in human remains have been recorded adjacent to the project site. If human remains are disturbed this is considered a significant impact. Detailed information and analysis regarding this potential significant impact are provided in Section 3.4, Cultural Resources, in the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the wetland mitigation bank's potentially significant impact on human remains would be mitigated to a level less than significant with the implementation of MM CR-3. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the potentially significant impact on human remains from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM CR-3. Implementation of MM CR-3 would reduce impacts from disturbing human remains by identifying procedures if an inadvertent discovery is made during ground disturbing activities.

MM CR-3 **Inadvertent Discovery of Human Remains.** If any previously unrecorded human remains are inadvertently discovered during archaeological investigations or construction, all ground-disturbing activities in the vicinity of the discovery shall cease immediately and a 100-foot-wide buffer shall be established around it to secure it from further disturbance. California State law (Health and Safety Code Section 7050.5; Public Resources Code Sections 5097.94, 5097.98 and 5097.99) shall be followed. This law specifies that work shall stop immediately in any areas where human remains or suspected human remains are encountered. The District and the county coroner shall be immediately notified of the discovery. The coroner has 2 working days to examine the remains after being notified by the lead agency. If the remains are determined to be Native American, the coroner has 24 hours to notify Native American Heritage Commission, who shall determine the most likely descendant. The Native American Heritage Commission shall immediately notify the identified most likely descendant, and the most likely descendant has 48 hours to make recommendations to the landowner or representative for the respectful treatment or disposition of the remains and grave goods. If the most likely descendant does not make recommendations within 48 hours, the area of the property shall be secured from further disturbance. If no recommendation is given, the District or its authorized representative shall re-inter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.

5.4 Energy

5.4.1 Conflict with State or Local Plan for Energy Efficiency

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on energy for the program-level PMPA for Parcels A, B, and C in that future commercial development would conflict with the District's Climate Action Plan and other applicable state renewable energy and energy efficiency plans. Detailed information and analysis regarding this potential significant impact are provided in Section 3.5, Energy, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.5, Energy, in the Final EIR, the potentially significant impact on energy from the implementation of the PMPA on Parcel A, B, and C would be mitigated to a level less than significant with implementation of MM GHG-1 and MM TRAN-1. Implementation of MM GHG-1 would require compliance with the District's Climate Action Plan and other applicable state and local renewable energy and energy efficiency plans through implementation of energy conservation measures. Implementation of MM TRAN-1, would require a traffic demand management plan that promotes ridesharing and vanpooling and provides subsidies for transit passes to reduce worker trips and parking demand, which would be consistent with the District's Climate Action Plan

MM GHG-1 **Greenhouse Gas Emission Reducing Design.** See Section 5.6.1 for details.

MM TRAN-1 Implement Transportation Demand Management Measures. See Section 5.10.1 for details.

5.5 Geology and Soils

5.5.1 Paleontological Resources

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on paleontological resources for the program-level PMPA for Parcels A, B, and C in that future commercial development may directly or indirectly destroy a paleontological resource. Detailed information and analysis regarding this potential significant impact are provided in Section 3.6, Geology and Soils, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.6, Geology and Soils, in the Final EIR, the potentially significant impact on paleontological resources from the implementation of the PMPA on Parcel A, B, and C would be mitigated to a level less than significant with the implementation of MM GEO-1. Implementation of MM GEO-1 would reduce the potential to directly or indirectly destroy a paleontological resource by requiring a qualified paleontologist monitor all excavations or grading below 10 feet. If fossils are discovered, the paleontologist would recover the fossils to be preserved and avoid destruction.

MM GEO-1 Paleontological Monitoring in Areas of Sensitivity. To reduce potential impacts on paleontological resources, all proposed grading and excavating to depths greater than 10 feet shall be monitored by a qualified paleontologist(s), approved by the District's Planning Department, paid for by the project proponent. Specifically, the project proponent and/or its construction supervisor shall ensure the following measures are implemented.

- A qualified Paleontologist shall attend the preconstruction meeting to consult with the grading and excavation contractors concerning excavation schedules, paleontological field techniques, and safety issues. A qualified Paleontologist is defined as an individual with a M.S. or Ph.D. in paleontology or geology who is familiar with paleontological procedures and techniques, who is knowledgeable in the geology and paleontology of San Diego County, and who has worked as a paleontological mitigation project supervisor in the county for at least 1 year.
- A paleontological monitor shall be on site on a full-time basis during excavation and pile driving activities that occur 10 feet or more below ground surface, to inspect exposures for contained fossils. The paleontological monitor shall work under the direction of the qualified Paleontologist. A paleontological monitor is defined as an individual selected by the qualified Paleontologist who has experience in the collection and salvage of fossil materials.
- If fossils are discovered, the Paleontologist shall recover them and temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner.

- Fossil remains collected during the monitoring and salvage portion of the mitigation program shall be cleaned, repaired, sorted, and catalogued.
- Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall be deposited (as a donation) in a scientific institution with permanent paleontological collections, such as the San Diego Natural History Museum. Donation of the fossils shall be accompanied by financial support for initial specimen storage, paid for by the project proponent.
- Within 30 days after the completion of an excavation and pile-driving activities, a final data recovery report shall be completed by the qualified Paleontologist that outlines the results of the mitigation program. This report shall include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils.

5.6 Greenhouse Gas Emissions

5.6.1 Generate Greenhouse Gas Emissions in Excess of Thresholds

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from GHG emissions for the project in that the amortized construction and operational emissions for both project components would result in a total annual emission of 2,997.6 metric tons (MT) of carbon dioxide equivalent (CO_2e). This would exceed the 900 MT of CO_2e per year screening threshold established by the County of San Diego. Detailed information and analysis regarding this potential significant impact are provided in Section 3.7, Greenhouse Gas Emissions, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.7, Greenhouse Gas Emissions, in the Final EIR, the project's potentially significant impact from GHG emissions would remain significant with the implementation of MM GHG-1, MM GHG-2, and MM TRAN-1. The total annual emissions of 2,997.6 MT of CO_2e would exceed the 900 MT of CO_2e per year screening threshold. MM GHG-1 would require future commercial developers to design buildings with GHG reducing measures. However, since no development is currently proposed, the specific measures that could be employed to reduce GHG emissions are unknown and cannot be quantified. MM GHG-2 would require future development to meet the state's Zero Net Energy standards, if the standards are adopted prior to commencement of construction, which would reduce GHG emissions. MM TRAN-1 would require a traffic demand management plan, which would reduce mobile source emissions by 39.3 MT of CO_2e per year.

MM GHG-1 Greenhouse Gas Emission Reducing Design. Prior to approval, future commercial developments shall list all GHG emission-reducing measures and demonstrate where these measures would be located in the plans. A report demonstrating compliance shall be submitted to the District's Planning Department.

The following is a list of proposed sustainability measures from the District Climate Action Plan that shall be required and incorporated into the Coastal Development Permit for the project.

- General measures:
    - No commercial drive-through shall be implemented.
- Water:
    - Indoor water consumption shall be reduced by 20 percent lower than baseline buildings (defined by Leadership in Energy and Environmental Design as indoor water use after meeting Energy Policy Act of 1992 fixture performance requirements) through use of low-flow fixtures in all administrative and common area bathrooms.
    - Low-water plantings and drip irrigation shall be installed, and domestic water demand from the city system for landscaping purposes shall be minimized.
- Waste:
    - Compliance with Assembly Bill 939 shall be mandatory and include recycling at least 50 percent of solid waste; recycling of demolition debris shall be mandatory and include recycling at least 65 percent of all construction and demolition debris.
    - All commercial, restaurant, and retail uses shall implement recycling, composting of food waste and other organics, and the use of reusable products instead of disposable products to divert solid waste from the landfill stream.
    - Recycled, regional, and rapidly renewable materials shall be used where appropriate during project construction.
- Energy:
    - Energy efficiency design features shall be incorporated that exceed the most recent Title 24 California Building Energy Efficiency Standards. Measures that may be implemented include:
        - Only fluorescent, light-emitting diodes, compact fluorescent lights, or the most energy-efficient lighting that meets required lighting standards and is commercially available shall be used.
        - Occupancy sensors for all vending machines shall be installed in new buildings at the project site.
        - On-site renewable energy to new buildings shall be implemented, unless the system cannot be built due to structural and operational constraints; evidence must be provided if not feasible, subject to District concurrence.
        - Cogeneration systems (i.e., combined heat and power systems) shall be installed in new buildings constructed at the project site.

        - High-performance glazing with a low solar heat gain coefficient value that reduces the amount of solar heat allowed into the building shall be installed, without compromising natural illumination.
        - Increased insulation shall be installed.
        - Cool roofs with an R value of 30 or better shall be installed.
        - Sun-shading devices shall be installed, as appropriate.
        - High-efficiency heating, ventilating, and air conditioning systems and controls shall be installed.
        - Programmable thermostats shall be installed.
        - Variable frequency drives shall be installed.
        - Energy Star-rated appliances shall be installed.
    - Mobile sources:
        - A minimum 6 percent of parking spaces shall be electric vehicle-ready.
        - A Transportation Demand Management plan for each project component that requires mandatory employer commuting measures, such as carpooling, transit subsidies, and vanpools, shall be implemented to reduce worker trips and parking demand.
        - Bicycle parking shall be included in project design. The number of spaces shall be, at a minimum, 5 percent of new automobile parking spaces.
    - Carbon sequestration and land use:
        - Trees and shrub planters shall be installed throughout the project area as part of the landscape plan.

MM GHG-2 **Electric Heating and Zero Net Energy Building.** The District shall require all development to meet the state's Zero Net Energy standards, if the standards are adopted prior to commencement of construction.

MM TRAN-1 **Implement Traffic Demand Management Measures.** See 5.10.1 for details.

5.6.2 Conflict with Applicable Greenhouse Gas Emission Reducing Plans

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from a conflict with a GHG emission reducing plan for program-level PMPA for Parcels A, B, and C in that the future commercial development would be inconsistent with the District's Climate Action Plan measures. Detailed information and analysis regarding this potential significant impact are provided in Section 3.7, Greenhouse Gas Emissions, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of

employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.7, Greenhouse Gas Emissions, in the Final EIR, the project's potentially significant impact from a conflict with an applicable GHG emission reducing plan would remain significant with the implementation of MM GHG-1, MM GHG-2, and MM TRAN-1. The total annual emissions of 2,997.6 MT of CO_2e would exceed the 900 MT of CO_2e per year screening threshold. MM GHG-1 would require future commercial developers to design buildings with GHG reducing measures; however, since no development is currently proposed, the specific measures that could be employed to reduce GHG emissions are unknown and cannot be quantified. MM GHG-2 would require future development to meet the state's Zero Net Energy standards, if the standards are adopted prior to commencement of construction. MM TRAN-1 would require a traffic demand management plan, which would reduce mobile source emissions by 39.3 MT CO_2e per year.

MM GHG-1 Greenhouse Gas Emission Reducing Design.

MM GHG-2 Electric Heating and Zero Net Energy Building.

MM TRAN-1 Implement Traffic Demand Management Measures. See Section 5.10.1 for details.

5.7 Hazards and Hazardous Materials

5.7.1 Release of Hazardous Materials into the Environment

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from hazards and hazardous materials for both the wetland mitigation bank and the PMPA for Parcels A, B, and C in that contaminated soils have been identified at the project site. Construction of the project would require excavation of soils. In the event excavation activities extend into any existing contaminated soils over the appropriate screening thresholds, there is a potential that hazardous materials could be released into the environment and expose workers to an unacceptable exposure level. Detailed information and analysis regarding this potential significant impact are provided in Section 3.8, Hazards and Hazardous Materials, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.8, Hazards and Hazardous Materials, of the Final EIR, the wetland mitigation bank's potentially significant impact from the release of hazardous materials into the environment would be mitigated to a level less than significant with the implementation of MM HAZ-1 and MM HAZ-2. Based on the analysis in Section 3.8, Hazards and Hazardous Materials, of the Final EIR, the potentially significant impact from the release of hazardous materials into the environment from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM HAZ-1 and MM HAZ-2. Implementation of MM HAZ-1 would require a soil management plan, that includes a characterization report, testing and profiling plan, and disposal plan, which would ensure proper identification, handling,

and disposal of contaminated soils. Implementation of MM HAZ-2 would require a site worker health and safety plan to ensure compliance with Hazardous Waste Operations and Emergency Response regulations for site workers.

MM HAZ-1 **Prepare and Implement a Soil Management Plan.** Prior to construction, the project proponent shall retain a licensed Professional Geologist, Professional Engineering Geologist, or Professional Engineer with experience in contaminated site restoration to prepare and submit a Soil Management Plan to the District for review and approval. After the District's review and approval, the project proponent shall implement the Soil Management Plan.

The plan shall include general provisions for how soils shall be managed within the project site. The plan shall ensure that soil requiring additional testing is identified and any soils that contain contaminants over the screening thresholds are properly managed. The plan shall address CCR Title 22 and Section 13260(a) of the California Water Code. The Soil Management Plan shall include the following:

- A *Site Contamination Characterization Report* (Characterization Report) delineating the vertical and lateral extent and concentration of residual contamination from the site's past uses. The Characterization Report shall include a compilation of data based on historical records review and from prior reports and investigations and, where data gaps are found, include new soil sampling to characterize the existing vertical and lateral extent and concentration of residual contamination. The project applicant shall coordinate with the County of San Diego Department of Health if the Characterization Report identifies contamination.

- A *Soil Testing and Profiling Plan* (Testing and Profiling Plan) for those materials that would be reused on site, reused off site, or disposed of during construction. Testing shall occur for all potential contaminants of concern, which shall include CCR Title 22 metals, volatile organic compounds, and total petroleum hydrocarbons at a minimum, and may also include polyaromatic hydrocarbon, pesticides, polychlorinated biphenyls, or any other suspected potential contaminants. For on-site soil reuse, the Testing and Profiling Plan shall document testing results compared to the effects range low thresholds for adverse biological effects (Long et al. 1995). For off-site soil reuse, the Testing and Profiling Plan shall document compliance with applicable screening criteria, which may include U.S. Environmental Protection Agency Region 9 Regional Screening Levels for composite worker soil, Department of Toxic Substances Control Modified screening levels for commercial and industrial soils, and Tier 1 Soil Screening Levels contained in RWQCB San Diego Region Order No R9-2014-0041, Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (Waiver 10, Section B(4)). However, off-site reuse screening criteria may be site specific. For off-site disposal, the Testing and Profiling Plan shall document compliance with CCR Title 22 for proper identification and segregation of hazardous and solid waste as needed for acceptance at a CCR Title 22–compliant off-site disposal facility. All excavation activities shall be actively monitored by a licensed Professional Geologist, Professional Engineering Geologist, or Professional Engineer for the

potential presence of contaminated soils and for compliance with the Testing and Profiling Plan.

- A *Soil Disposal Plan* (Disposal Plan), which shall describe the process for excavation, stockpiling, dewatering, treating, and loading and hauling of soil from the site. This plan shall be prepared in accordance with the Testing and Profiling Plan (i.e., in accordance with CCR Title 22 and U.S. Department of Transportation Title 40 Code of Federal Regulations Part 263), Section 13260(a) of the California Water Code, and current industry best practices for the prevention of cross contamination, spills, or releases. Measures shall include, but not be limited to, segregation into separate piles for waste profile analysis based on organic vapor, and visual and odor monitoring. Alternatively, soil shall be fully characterized *in situ*, prior to excavation, and may be loaded directly for transport and reuse or disposal in lieu of stockpiling.

  General soil management controls to be implemented by the contractor and the following topics shall be addressed within the Soil Management Plan:

- Dust control
- Management of soil stockpiles
- Stormwater erosion control using BMPs, as specified in a stormwater pollution prevention plan

MM HAZ-2 **Prepare and Implement a Site Worker Health and Safety Plan.** Prior to construction the project proponent shall prepare and submit a Site Worker Health and Safety Plan (Safety Plan) to the District for review and approval. The Safety Plan shall ensure compliance with 29 Code of Federal Regulations Part 120, Hazardous Waste Operations and Emergency Response regulations for site workers at uncontrolled hazardous waste sites. The Safety Plan shall ensure that site workers potentially exposed to site contamination in soil and groundwater are trained, equipped, and monitored during site activity. The training, equipment, and monitoring activities shall ensure that workers are not exposed to contaminants above personnel exposure limits established by Table Z, 29 Code of Federal Regulations Part 1910.1000. The Safety Plan shall be signed by and implemented under the oversight of a California State Certified Industrial Hygienist.

5.8 Hydrology and Water Quality

5.8.1 Substantially Alter the Existing Drainage Pattern of the Site

Project Level – Wetland Mitigation Bank

Potential Impact. The Final EIR identifies a potentially significant impact on hydrology and water quality for the wetland mitigation bank in that the project would alter the existing drainage pattern of the site and potentially result in long-term scour around the Bayshore Bikeway Bridge or downstream. Detailed information and analysis regarding this potential significant impact are provided in Section 3.9, Hydrology and Water Quality, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.9, Hydrology and Water Quality, in the Final EIR, the wetland mitigation bank's potentially significant impact resulting from altering the existing drainage pattern of the site would be mitigated to a level less than significant with the implementation of MM HY-1. Impacts from potential erosion due to long-term tidal scour on the Bayshore Bikeway Bridge or channel downstream would be reduced with the implementation of MM HY-1 to less than significant by requiring preparation and implementation of a Bridge and Channel Scour Monitoring and Maintenance Program. The program would require annual monitoring of the channel and a professional engineer and qualified biologist to review the results of the surveys and identify appropriate adaptive management strategies. The implementation of adaptive strategies may result in additional effects which would be approved by applicable agencies through the permit process.

MM HY-1 **Bridge and Channel Scour Monitoring and Maintenance.** A Bridge and Channel Scour Monitoring and Maintenance Program shall be developed and implemented by the District. The program shall outline a survey plan to be carried out for a minimum of 10 years. The survey plan shall:

- Identify protocols for collecting baseline data prior to commencement of construction;
- Identify a minimum of 5 cross sections to be surveyed for scour and the area to be surveyed for sensitive habitats;
- Require annual monitoring for at least 10 years;
- Identify ideal conditions for monitoring (i.e., season, tide level, outside nesting season);
- Identify monitoring protocols (i.e., qualified biologist); and
- Require a professional engineer and qualified biologist to review the results of the surveys.

Based on the results of the survey, a professional engineer shall compare the results of the annual surveys to baseline conditions to determine the amount of scour at each cross section. The professional engineer shall identify adaptive management strategies, if necessary, to ensure the existing structures do not fail, including the Bayshore Bikeway Bridge and salt pond berms. During the 10th year of monitoring, the professional engineer shall determine if additional annual monitoring is needed. Additional annual monitoring shall be assessed on an annual basis following the completion of 10 years of monitoring.

The qualified biologist shall compare the results of the annual surveys to baseline conditions to determine impacts on sensitive habitats. If impacts on sensitive habitat are documented, then compensatory mitigation per MM BR-10 shall be determined in consultation with applicable agencies.

The cross sections included in the program shall include the channel in the area of the Bayshore Bikeway Bridge and the narrow channel cross section of the Otay River immediately downstream of the bridge near Pond 22 identified in Environmental

Science Associate's 2020 Hydrodynamic Modeling Report (Appendix K to this EIR). The sensitive habitat survey area shall include the area from the berm breach site to the marsh bank at the narrow channel cross section of the Otay River.

As part of the baseline data collected, the program shall require probing the sediment in the channel in the vicinity of the Bayshore Bikeway Bridge. The conservatively high estimate in Environmental Science Associates' 2020 Hydrodynamic Modeling Report (Appendix K to this EIR) identified the potential for widening of the channel to occur if downcutting is limited at this location. If hardened areas in the sediment are identified at this location, the professional engineer shall identify adaptive management strategies. Baseline data should also include vegetation mapping from the berm breach site to the marsh bank at the narrow channel cross section of the Otay River.

The program shall identify adaptive management strategies that are appropriate for the location, which would not impact tidal influence at the mitigation bank, and are approved by the professional engineer. Potential adaptive management strategies include:

- Removal of hardened sediment near the Bayshore Bikeway Bridge;
- Excavation of sediment;
- Re-grading of the channel; and
- Armoring of the channel.

If re-grading or armoring is required, the program shall include measures to ensure consistency with post-construction erosion control plans.

5.9 Noise

5.9.1 Temporary Increase in Ambient Noise Levels

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from noise for the program-level PMPA for Parcels A, B, and C in that future commercial development may result in a temporary increase in ambient noise levels during construction. Detailed information and analysis regarding this potential significant impact are provided in Section 3.11, Noise, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.11, Noise, in the Final EIR, the potentially significant impact from a temporary increase in ambient noise levels from the implementation of the PMPA on Parcel A, B, and C would remain significant with implementation of MM NOI-1. Implementation of MM NOI-1 would require compliance with the City of San Diego’s construction noise hours limitations, that all construction equipment be equipped with

manufacturer-recommended mufflers, a detailed construction plan for scheduling impactful construction activities to minimize disturbances, and that sensitive receptors be acoustically shielded from construction activities with temporary noise barriers placed around the equipment generating the noise. These measures would only reduce by 5–6 dBA and some construction phases would exceed the City of San Diego's 75 dBA L_{eq} with mitigation.

MM NOI-1 **Employ Noise Reducing Measures During Construction.** Construction of the future commercial development on Parcels A, B, and/or C shall be required to comply with the following measures:

a) Construction activity is prohibited between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day, or on legal holidays as specified in Section 21.04 of the San Diego Municipal Code, with exception of Columbus Day and Washington's Birthday, or on Sundays, that would create disturbing, excessive, or offensive noise unless a permit has been applied for and granted beforehand by the Noise Abatement and Control Administrator, in conformance with San Diego Municipal Code Section 59.5.0404. No noise variance permit would be sought and construction would adhere to the times identified above.

b) The contractor shall equip all internal combustion engines with the manufacturer-recommended muffler and shall not operate any internal combustion engine on the job site without the appropriate muffler.

c) The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.

d) When construction activities are projected to exceed 75 dBA L_{eq} during the 12-hour period from 7:00 a.m. to 7:00 p.m., equipment generating the noise shall be acoustically shielded with temporary noise barriers or pile driving shielding. The need for and feasibility of temporary noise barriers would be evaluated on a case-by-case basis by considering the distance to noise-sensitive receptors, available space at the construction location, safety, and proposed project operations.

5.9.2 Generation of Excessive Groundborne Vibration

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from groundborne vibration for the program-level PMPA for Parcels A, B, and C in that future commercial development may result in a temporary generation of excessive groundborne vibration during construction. Detailed information and analysis regarding this potential significant impact are provided in Section 3.11, Noise, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.11, Noise, in the Final EIR, the potentially significant impact from a generation of excessive groundborne vibration from the implementation of the PMPA on Parcel A, B, and C would remain significant with implementation of MM NOI-1. Implementation of MM NOI-1 would require compliance with the City of San Diego's construction noise hours limitations, that all construction equipment be equipped with manufacturer-recommended mufflers, a detailed construction plan for scheduling impactful construction activities to minimize disturbances, and that sensitive receptors be acoustically shielded from construction activities with temporary noise barriers placed around the equipment generating the noise.

MM NOI-1 Employ Noise Reducing Measures During Construction.

5.10 Transportation

5.10.1 Conflict with CEQA Guidelines Section 15064.3(b)

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from generating an increase in vehicle miles traveled (VMT) for the program-level PMPA for Parcels A, B, and C in that future commercial development would exceed the regional threshold for retail use of no increase in VMT. Detailed information and analysis regarding this potential significant impact are provided in Section 3.13, Transportation, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.13, Transportation, in the Final EIR, the potentially significant impact from generating VMT from the implementation of the PMPA on Parcels A, B, and C would remain significant with implementation of MM TRAN-1. MM TRAN-1 includes all feasible measures identified based on the results of the San Diego Association of Governments Mobility Management VMT Reduction Calculator Tool. MM TRAN-1 would be implemented to reduce future commercial development VMT by requiring a mandatory employer commute program, employer carpool program, employer transit pass subsidy, and employer vanpool program. MM TRAN-1 would reduce VMT by 2.6 percent, which is well short of the 100 percent reduction of project related VMT that is required to reduce the identified impact to less than significant.

MM TRAN-1 Implement Transportation Demand Management Measures. To reduce VMT by operation of future commercial development, the following Transportation Demand Management reduction measures from the San Diego Association of Governments Mobility Management VMT Reduction Calculator Tool shall be implemented.

- *1B Mandatory Employer Commute Program.* The District shall mandate future project applicants to implement a commute program as part of their lease. Employer offers a mandatory employer commute trip reduction program. The program may include a carpool or vanpool program, subsidized or discounted transit passes, bike amenities, encouragement for telecommuting and alternative

work schedules, commute trip reduction marketing, and preferential parking permit program.

- *1C Employer Carpool Program.* Employers can encourage carpooling by providing ride-matching assistance to employees; providing priority parking for carshare vehicles; and providing incentives for carpooling. The District shall mandate future project applicants to implement a commute program as part of their lease.
- *1D Employer Transit Pass Subsidy.* Employers can encourage employees to take transit by subsidized or discounted daily or monthly public transit passes to employees.
- *1E Employer Vanpool Program.* Vanpooling is a flexible form of public transportation that provides groups of 5–15 people with a cost-effective and convenient rideshare option for commuting. An employer can encourage ridesharing by subsidizing vanpooling for employees that have a similar origin and destination and by providing priority parking for employees that vanpool. The San Diego Association of Governments Vanpool Program provides a subsidy of up to $400 per month to offset the vehicle lease cost.
- *4C Bike Facility Improvement.* A bikeway network includes an interconnected system of bike lanes, bike paths, and cycle tracks (Class I, Class II, and Class IV facilities). Bike facilities may share the roadway with vehicles or provide a dedicated pathway that separates bikes from cars or pedestrians. Increasing the network of bike facilities help to encourage biking as a safe and convenient alternative to driving.

5.11 Tribal Cultural Resources

5.11.1 Substantial Adverse Change in the Significance of Tribal Cultural Resources

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on tribal cultural resources for both the wetland mitigation bank and the PMPA for Parcels A, B, and C due to the presence of Native American archaeological sites CA-SDI-4360 and CA-SDI-19712 within the project site. Detailed information and analysis regarding this potential significant impact are provided in Section 3.14, Tribal Cultural Resources, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.14, Tribal Cultural Resources, in the Final EIR, the project's potentially significant impact on tribal cultural resources would be mitigated to a level less than significant with the implementation of MM TCR-1. Implementation of MM TCR-1 would require the District to invite a Native American monitor who would minimize harm to, and ensure the appropriate treatment of, any undiscovered objects or features with

cultural value to descendant communities, including Native American burial remains, associated and unassociated funerary objects, sacred objects, and other cultural patrimony.

MM TCR-1 **Native American Monitoring.** The District shall retain a qualified Native American cultural resource monitor to be present during all archaeological investigations, grading, and subsurface disturbance within the project site. In the event that on-site monitoring of excavations is determined unfeasible due to safety or logistical concerns, the Native American monitor shall be present during off-site visual observation or screening of sediment, as detailed in MM CR-1. The Native American monitor shall work in coordination with the archeological monitor and the District's qualified archaeologist, who shall notify them in advance of the schedule and locations for cultural resource monitoring activities. If more than one location is under construction at a given time, and if both locations cannot effectively be monitored by one individual, more than one Native American monitor may be required.

Because the Native American monitor is invited to participate, work shall be allowed to continue without their presence. The Native American monitor shall not have the authority to temporarily halt equipment or issue a stop-work order. The Native American monitor shall report any concerns and input to the archaeological monitor or the District's qualified archaeologist, who shall be responsible for taking the appropriate action in response.

5.12 Utilities and Service Systems

5.12.1 Require Construction of New or Expanded Utilities

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on utilities and service systems for the program-level PMPA for Parcels A, B, and C in that future commercial development would require connection to numerous utilities to support commercial development. The connection of new utilities would require trenching, excavation, and grading, which could result in direct and indirect impacts on biological, cultural, and TCRs and would result in construction-related impacts including noise generation and emission of criteria air pollutants. Detailed information and analysis regarding this potential significant impact are provided in Section 3.15, Utilities and Service Systems, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.15, Utilities and Service Systems, in the Final EIR, the potentially significant impacts from the construction of new utilities from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-2, MM BR-3, MM BR-4, MM BR-5, MM BR-7, MM BR-8, MM BR-10, MM CR-1, MM CR-3, and MM TCR-1.

Implementation of MM BR-1 would require implementation of biological resource protection measures during construction, which would reduce impacts on special status plants and wildlife by requiring a range of measures, such as WEAP training and requiring vegetation removal occur outside of bird nesting season. Implementation of MM BR-2 would require preconstruction rare plant surveys, which

would identify target species that would need to be restored. Implementation of MM BR-3 would require restoration of temporary impacts, which would restore suitable habitat. Implementation of MM BR-4 would require preconstruction avian surveys for federally and state-listed species to determine presence of these species and install appropriate buffers. Implementation of MM BR-5 would require preconstruction surveys for burrowing owl to determine presence of the species and install appropriate buffers. Implementation of MM BR-7 would require biological resource protection measures to be implemented during operations. Implementation of MM BR-8 would require wildlife surveys be conducted on Parcels A, B, and C prior to construction to determine presence of species in order to avoid impacts. Implementation of MM BR-10 would require compensatory mitigation for impacts on WOUS, CCC wetlands, and CDFW-regulated streambed, which would ensure no loss of aquatic function. Implementation of MM CR-1 would reduce impacts on archaeological sites CA-SDI-4360 and CA-SDI-19712 from destruction or alteration of potentially significant subsurface archaeological deposits through the recovery of scientifically consequential information from and about historical resources. Implementation of MM CR-3 would reduce impacts from disturbing human remains by identifying procedures if an inadvertent discovery is made during ground disturbing activities. Implementation of MM TCR-1 would require the District to invite a Native American monitor who would minimize harm to and ensure the appropriate treatment of any undiscovered objects or features with cultural value to descendant communities, including Native American burial remains, associated and unassociated funerary objects, sacred objects, and other cultural patrimony.

MM BR-1 Implement Biological Resource Protection Measures During Construction.

MM BR-2 Preconstruction Rare Plant Surveys.

MM BR-3 Restoration of Temporary Impacts.

MM BR-4 Preconstruction Surveys for Federally and State Listed Avian Species.

MM BR-5 Preconstruction Surveys for Burrowing Owl.

MM BR-7 Implement Resource Protection Measures During Operation for Parcels A, B, And C.

MM BR-8 Wildlife Surveys for Parcels A, B, And C.

MM BR-10 Compensatory Mitigation for Impacts on Special Status Biological Resources.

MM CR-1 Preparation of a Cultural Resource Mitigation and Management Plan.

MM CR-3 Inadvertent Discovery of Human Remains.

MM TCR-1 Native American Monitoring.

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6 Effects Found Not to be Significant

CEQA Guidelines Section 15128 require that an EIR contain a brief statement disclosing the reasons why various possible significant effects of the project were found not to be significant, and therefore, would not be discussed in detail in the EIR. Chapter 5, Additional Consequences of Project Implementation, of the Final EIR identified the following issue areas that would not be impacted by the project:

- Aesthetics
  - Threshold (d) Light and Glare (Project Level – Wetland Mitigation Bank)
- Agriculture and forestry resources
- Air quality
  - Threshold (d) Odors (Project Level – Wetland Mitigation Bank)
- Biological resources
  - Threshold (e) and (f) Local Policies, Ordinances, or Habitat Conservation Plans Protecting Biological Resources
- Energy
  - Threshold (b) State of Local Renewable Energy or Energy Efficiency Plans (Project Level – Wetland Mitigation Bank)
- Geology and soils
  - Threshold (a.i.) Rupture of Known Earthquake Fault
  - Threshold (a.iv.) Landslides
  - Threshold (e) Septic Tanks (Project Level – Wetland Mitigation Bank)
- Hazards and hazardous materials
  - Threshold (c) Proximity to Schools
  - Threshold (d) Hazardous Materials Sites
  - Threshold (e) Airports
- Hydrology and water quality
  - Threshold (b) Groundwater (Project Level – Wetland Mitigation Bank)
  - Threshold (c.iii.) Stormwater Runoff (Project Level – Wetland Mitigation Bank)
  - Threshold (e) Water Quality Control Plan (Project Level – Wetland Mitigation Bank)
- Land use and planning
  - Threshold (a) Physically Divide and Established Community
- Mineral resources
- Population and housing

- Public services
  - Threshold (a.i.) Fire Protection (Project Level – Wetland Mitigation Bank)
  - Threshold (a.ii.) Police Protection
  - Threshold (a.iii.) Schools
  - Threshold (a.iv.) Parks
  - Threshold (a.v.) Other Public Facilities
- Recreation
- Transportation
  - Threshold (c) Geometric Design Feature (Project Level – Wetland Mitigation Bank)
  - Threshold (d) Inadequate Emergency Access
- Utilities and service systems
  - Threshold (a) Relocation and Construction of New or Expanded Facilities (Project Level – Wetland Mitigation Bank)
  - Threshold (b) Sufficient Water Supplies (Project Level – Wetland Mitigation Bank)
  - Threshold (c) Wastewater Treatment (Project Level – Wetland Mitigation Bank)
- Wildfire

7 Findings Regarding Cumulative Significant Effects

CEQA requires a lead agency to evaluate the cumulative impacts of a proposed project (CEQA Guidelines Section 15130[a]). Cumulative impacts are those that are considered significant when viewed in connection with the impacts of other closely related, past, present, and reasonably foreseeable future projects (CEQA Guidelines Section 15355). Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

The EIR analyzes cumulative impacts by compiling a list of past, present, and probable future project producing related or cumulative impacts, including projects outside the lead agency's jurisdiction (CEQA Guidelines Section 15130[b][1][A]). The list of past, present, and reasonably foreseeable future projects should include related projects that have already been constructed, are currently under construction, are approved but not yet under construction, and are not yet approved but are under environmental review at the time the Draft EIR is prepared (CEQA Guidelines Section 15130). The list must include not only projects under review by the lead agency, but also those under review by other relevant public agencies.

The EIR considered 13 past, present, and reasonably foreseeable projects within the vicinity of the project in evaluating potential cumulative impacts. A detailed description of these projects is provided in Chapter 4, Cumulative Impacts, of the Final EIR.

The project would contribute to cumulative impacts related to GHG emissions and transportation. The findings below identify each of the potential significant cumulative environmental impacts, the mitigation measures adopted to substantially lessen or avoid impacts, or the reasons proposed mitigation measures are infeasible due to specific economic, social, or other considerations. The findings incorporate, by reference, the analysis of significant cumulative impacts contained in Chapter 4, Cumulative Impacts, of the Final EIR.

The potential significant cumulative impacts related to GHG emissions and transportation would not be avoided or reduced to a level below significance despite the incorporation of all feasible mitigation measures. As described in the statement of overriding consideration below, the District has determined these unavoidable significant cumulative impacts are acceptable because of specific overriding considerations.

7.1 Greenhouse Gas Emissions

7.1.1 Generate Greenhouse Gas Emissions in Excess of Thresholds and Conflict with Applicable Greenhouse Gas Emission Reducing Plans

Potential Impact. The Final EIR identifies a potential significant cumulative impact from GHG emissions for the project in that the amortized construction and operational emissions for both project components would result in a total annual emission of 2,997.6 MT of CO_2e. This would exceed the 900 MT of CO_2e per year screening threshold established by the County of San Diego. This would also conflict with the District's Climate Action Plan measures. Detailed information and analysis regarding this potential significant cumulative impact are provided in Section 4.3.7, Greenhouse Gas Emissions, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. As stated in Chapter 4, Cumulative Impacts, GHG emissions are inherently a cumulative analysis. Past, present, and reasonably foreseeable future projects throughout the world including, but not limited to, the projects listed in Chapter 4, Cumulative Impacts, have contributed and continue to contribute to cumulative impacts on global climate change. The project's increase in GHG emissions would contribute to significant cumulative impacts.

Based on the analysis in Section 4.3.7, Greenhouse Gas Emissions, in the Final EIR, the project's potential significant cumulative impact from GHG emissions would remain significant with the implementation of MM GHG-1, MM GHG-2, and MM TRAN-1. The total annual emissions of 2,997.6 MT of CO_2e would exceed the 900 MT of CO_2e per year screening threshold. MM GHG-1 would require future commercial developers to design buildings with GHG-reducing measures; however, since no development is currently proposed, the specific measures that could be employed to reduce GHG emissions are unknown and cannot be quantified. MM GHG-2 would require future development to meet the state's Zero Net Energy standards if the standards are adopted prior to commencement of construction. MM TRAN-1 would require a traffic demand management plan, which would reduce mobile source emissions by 39.3 MT of CO_2e per year.

MM GHG-1 Greenhouse Gas Emission Reducing Design.

MM GHG-2 Electric Heating and Zero Net Energy Building.

MM TRAN-1 Implement Traffic Demand Management Measures.

7.2 Transportation

7.2.1 Conflict with CEQA Guidelines Section 15064.3(b)

Potential Impact. The Final EIR identifies a potential significant cumulative impact from generating an increase in VMT for the program-level PMPA for Parcels A, B, and C in that future commercial development would exceed the regional threshold for retail use of no increase in VMT. Detailed information and analysis regarding this potential significant cumulative impact are provided in Section 4.3.13, Transportation, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. As stated in Chapter 4, Cumulative Impacts, VMT is largely a cumulative impact by nature. VMT from past, present, and probable future projects have contributed to, and continue to contribute to, cumulative VMT impacts, as well as similarly cumulative secondary physical environmental effects such as increased GHG emissions. The project's increase in VMT would contribute to significant cumulative impacts.

Based on the analysis in Section 4.3.13 of Chapter 4, Transportation, in the Final EIR, the potential significant cumulative impact from generating VMT from the implementation of the PMPA on Parcel A, B, and C would remain significant with implementation of MM TRAN-1. MM TRAN-1 includes all feasible measures identified based on the results of the Mobility Management VMT Reduction Calculator Tool. MM TRAN-1 would be implemented to reduce future commercial development VMT by requiring a mandatory employer commute program, employer carpool program, employer transit pass subsidy, and employer vanpool program. MM TRAN-1 would reduce VMT by 2.6 percent, which is well short of the 100 percent reduction of project related VMT that is required to reduce the identified impact to less than significant.

MM TRAN-1 Implement Transportation Demand Management Measures.

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8 Findings Regarding Feasible Alternatives

In preparing and adopting Findings, a lead agency need not necessarily address the feasibility of both mitigation measures and environmentally superior alternatives when contemplating the approval of a project with significant environmental impacts. Where the significant impacts can be mitigated to a level below significance solely by the adoption of mitigation measures, the lead agency has no obligation in drafting its Findings to consider the feasibility of environmentally superior alternatives, even if their impacts would be less severe than those of the project as mitigated. Accordingly, in adopting the Findings concerning alternatives for the proposed project, the District considers only those significant environmental impacts that cannot be avoided or substantially lessened through mitigation.

When a project results in some unavoidable, significant environmental impacts, even after application of all feasible mitigation measures identified in an EIR, the lead agency must evaluate the project alternatives identified in the EIR. Under such circumstances, the lead agency must consider the feasibility of alternatives to the project that could avoid or substantially lessen the unavoidable, significant environmental impacts. The term feasible means capable of being accomplished in a successful manner within a reasonable time, while taking into account economic, environmental, legal, social, and technological factors (CEQA Guidelines, Section 15364).

If there are no feasible project alternatives, the lead agency must adopt a statement of overriding considerations with regard to the project, pursuant to CEQA Guidelines, Section 15093. If there is a feasible alternative to the project, the lead agency must decide whether it is environmentally superior to the proposed project. The lead agency must consider in detail only those alternatives that could feasibly attain most of the basic objectives of the project; however, the lead agency must consider alternatives capable of eliminating significant environmental impacts even if these alternatives would impede to some degree the attainment of project objectives (CEQA Guidelines, Section 15126.6[f]).

These Findings contrast and compare the alternatives where appropriate to demonstrate that the selection of a preferred alternative as the approved project has substantial environmental, planning, fiscal, and other benefits. In rejecting certain alternatives, the District has examined the project objectives and weighed the ability of the various alternatives to meet the objectives. The objectives considered by the District are set forth in Section 2.3, as well as Section 2.3 of Chapter 2, Project Objectives, of the EIR.

The EIR examined a range of reasonable alternatives to determine whether they could meet the project objectives while avoiding or substantially lessening one or more of the proposed project's unavoidable, significant impacts. These Findings also considered the feasibility of each alternative. In determining the feasibility of alternatives, the District considered whether the alternatives could be accomplished in a successful manner within a reasonable period of time in light of economic, environmental, social, and technological factors (CEQA Guidelines, Sections 15126(d)(5)(A), 15364). "In the context of project approval, a public agency may find that an alternative is 'infeasible' if it determines, based upon the balancing of the statutory factors, that an alternative cannot meet project objectives or 'is impractical or undesirable from a policy standpoint'" (Los Angeles Conservancy v. City of West Hollywood [2017] 18 Cal.App.5th 1031, 1041). Therefore, "broader considerations of policy thus come into play when the decision-making body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives" (California Native Plant Society v. City of Santa Cruz [2009] 177 Cal.App.4th 957, 1000).

The alternatives to the project are evaluated in Chapter 6, Alternatives to the Proposed Project, of the EIR in terms of their ability to meet the basic objectives of the project and eliminate or further reduce its significant environmental effects. Based on these parameters, the following alternatives were considered and analyzed in the EIR:

(1) Alternative 1: No Project/No Wetland Mitigation Bank or PMPA Alternative

(2) Alternative 2: Wetland Mitigation Bank and No Commercial Development on Parcels A, B, and C

(3) Alternative 3: Wetland Mitigation Bank, Commercial Recreation on Parcels B and C, and Open Space on Parcel A

This section of the Findings summarizes these alternatives and their feasibility and effectiveness in avoiding or substantially lessening any of the unavoidable, significant impacts associated with the proposed project.

8.1 Alternative 1: No Project/No Wetland Mitigation Bank or Port Master Plan Amendment Alternative

CEQA Guidelines require analysis of the No Project Alternative. According to Section 15126.6(e), “the specific alternative of ‘no project’ shall also be evaluated, along with its impacts. The ‘no project’ analysis shall discuss the existing conditions at the time the NOP is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the proposed project was not approved, based on current plans and consistent with available infrastructure and community services.”

The No Project/No Wetland Mitigation Bank or PMPA Alternative assumes that the proposed project would not be implemented, and the project site would remain in its current condition and remain unchanged. Under the No Project/No Wetland Mitigation Bank or PMPA Alternative, no wetland mitigation bank would be developed, and no parcels would be incorporated into the PMP.

The potential impacts of the No Project/No Wetland Mitigation Bank or PMPA Alternative are discussed in detail in Chapter 6, Alternatives to the Proposed Project, of the Final EIR. Relative to the proposed project, the No Project/No Wetland Mitigation Bank or PMPA Alternative would avoid or reduce impacts related to aesthetics, biological resources, cultural resources, energy, geology and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, noise, transportation, tribal cultural resources, and utilities and service systems. However, the No Project/No Wetland Mitigation Bank or PMPA Alternative would result in a greater impact related to land use and planning because the parcels would not be incorporated into the PMP, which would be in conflict with the Port Act.

The District finds that all the potentially significant environmental impacts of the proposed project, except the unavoidable, significant impact related to GHG emissions, noise, and transportation, would be mitigated by the design of the proposed project and the adoption of the mitigation measures set forth in the MMRP. The District further finds that, although the No Project/No Wetland Mitigation Bank or PMPA Alternative would avoid or substantially lessen the potentially significant impacts related to aesthetics, biological resources, cultural resources, energy, geology and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, noise, transportation, tribal cultural resources, and utilities and service systems, this alternative is infeasible because it would not attain any of the project objectives and would not provide the District and the region with any of the benefits

described in the statement of overriding considerations, and thus, would be undesirable from a policy standpoint. For the potentially significant impacts that cannot be avoided or mitigated to a level below significance, the District adopts the statement of overriding considerations in Section 9, pursuant to CEQA Guidelines, Section 15093.

8.2 Alternative 2: Wetland Mitigation Bank and No Commercial Development on Parcels A, B, and C

The Wetland Mitigation Bank and No Commercial Development of Parcels A, B, and C Alternative assumes the creation of the wetland mitigation bank would occur as described in the EIR. The Bank Parcel would be incorporated into the PMP with the land use designation of wetlands. Parcels A, B, and C would still be incorporated into the PMP; however, instead of the land use designation of commercial recreation, the land use designation of open space would be assigned. The open space land use designation may include limited use and/or transitional zones from biologically significant resources deserving protection and preservation. Public access within open spaces areas is limited to passive uses, such as outlooks, picnic areas, or spur trails, which should include interpretive and educational opportunities. This alternative assumes preservation and protection of the wetland features on Parcels A and C.

The potential impacts of Alternative 2 are discussed in detail in Chapter 6, Alternatives to the Proposed Project, of the Final EIR. Relative to the proposed project, the Wetland Mitigation Bank and No Commercial Development of Parcels A, B, and C Alternative would avoid significant impacts related to GHG emissions, noise, and transportation. Additionally, less than significant impacts associated with several resource areas would be reduced or avoided, including impacts on air quality, energy, geology and soils, and utilities and service systems. Impacts on aesthetics, biological resources, cultural resources, hazards and hazardous materials, hydrology and water quality, land use, public services, and TCRs would be similar to the proposed project.

Alternative 2 would meet most of the project objectives; however, the project objective of supporting economic development and community investment, in alignment with the District's adoption of Board Policy No. 774, would not be met by the program-level component. As a result of not including commercial development on Parcels A, B, and C, this alternative does not maximize the economic benefit to the areas specified in Board Policy No. 774.

The District finds that all the potentially significant environmental impacts of the proposed project, except the unavoidable, significant impact related to GHG emissions, noise, and transportation, would be mitigated by the design of the proposed project and the adoption of the mitigation measures set forth in the MMRP. The District further finds that, although Alternative 2 would avoid or substantially lessen the potentially significant impacts related to energy, geology and soils, GHG emissions, noise, transportation, and utilities and service systems, this alternative is infeasible because it would not attain all of the project objectives, particularly the objective to promote economic development and community investment consistent with Board Policy No. 774, which established the Pond 20 EDF to collect and allocate funds for economic development and public improvement projects, which in turn produce public economic improvements or public benefits, in the City of Imperial Beach and the City of San Diego, Council District 8. Moreover, Alternative 2 would not provide the District and the region with all of the benefits described in the statement of overriding considerations, and thus, would be undesirable from a policy standpoint. For the potentially significant impacts that cannot be avoided or mitigated to a level below significance, the District adopts the statement of overriding considerations in Section 9, pursuant to CEQA Guidelines, Section 15093.

8.3 Alternative 3: Wetland Mitigation Bank, Commercial Recreation on Parcels B and C, and Open Space on Parcel A

The Wetland Mitigation Bank, Commercial Recreation on Parcels B and C, and Open Space on Parcel A Alternative assumes the creation of the wetland mitigation bank would occur as described in the EIR. The Bank Parcel would be incorporated into the PMP with the land use designation of wetlands. Parcels B and C would still be incorporated into the PMP as commercial recreation, as described in the EIR. Parcel A would be incorporated into the PMP with the land use designation of open space. Similar to Alternative 2, the open space land use designation may include limited use and/or transitional zones from biologically significant resources deserving protection and preservation. Public access within open space areas is limited to passive uses, such as outlooks, picnic areas, or spur trails, which should include interpretive and educational opportunities. This alternative assumes protection of the wetland features on Parcel A.

The potential impacts of Alternative 3 are discussed in detail in Chapter 6, Alternatives to the Proposed Project, of the Final EIR. Relative to the proposed project, the Wetland Mitigation Bank, Commercial Recreation on Parcels B and C, and Open Space on Parcel A Alternative would result in similar impacts for all resource area compared to the proposed project; however, some resources would result in slightly reduced impacts. Significant and unavoidable impacts from GHG emissions, noise, and transportation would be similar to the proposed project.

Alternative 3 would meet most of the project objectives; however, the project objective of supporting economic development and community investment, in alignment with the District's adoption of Board Policy No. 774, would not be met by the program-level component. As a result of not including commercial development on Parcel A, this alternative does not maximize the economic benefit to the areas specified in Board Policy No. 774.

The District finds that all the potentially significant environmental impacts of the proposed project, except the unavoidable, significant impacts related to GHG emissions, noise, and transportation, would be mitigated by the design of the proposed project and the adoption of the mitigation measures set forth in the MMRP. The District finds that, although Alternative 3 would slightly reduce impacts for some resources, this alternative is infeasible because it would not attain all of the project objectives. Particularly, Alternative 3 would not achieve, to the same extent as the project, the objective to promote economic development and community investment consistent with Board Policy No. 774, which established the Pond 20 EDF to collect and allocate funds for economic development and public improvement projects, which in turn produce public economic improvements or public benefits, in the City of Imperial Beach and the City of San Diego, Council District 8. Moreover, Alternative 2 would not provide the District and the region with all of the benefits described in the statement of overriding considerations, and thus, would be undesirable from a policy standpoint. For the potentially significant impacts that cannot be avoided or mitigated to a level below significance, the District adopts the statement of overriding considerations in Section 9, pursuant to CEQA Guidelines, Section 15093.

9 Statement of Overriding Considerations

As discussed in Section 5 of these CEQA findings, the Final EIR concludes that the project, even with incorporation of all feasible mitigation measures and consideration of alternatives, would have a significant impact related to GHG emissions, noise, and transportation.

Section 15093 of the CEQA Guidelines requires the lead agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a project outweigh the unavoidable, adverse environmental effects, the adverse environmental effects may be considered acceptable.

When the lead agency approves a project that would result in the occurrence of significant effects, which are identified in the Final EIR but are not avoided or substantially lessened by the adoption of all feasible mitigation measures and alternatives, the lead agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

Pursuant to CEQA Section 21081 and CEQA Guidelines Section 15093, the District adopts the following statement of overriding considerations regarding the unavoidable significant impacts related to GHG emissions, noise, and transportation outlined in the Final EIR for the Wetland Mitigation Bank at Pond 20 and PMPA Project, as well as the anticipated economic, legal, social, and technological and other benefits associated with the project.

In approving the project, the District has weighed the benefits of the project against the significant adverse impacts identified in the Final EIR that have not been avoided or lessened through mitigation to a level of less than significant. The District hereby determines that benefits of the project outweigh the unmitigated adverse impact, and the project should be approved. The District finds that, to the extent that the identified significant or potentially significant adverse impact has not been avoided or substantially lessened, there are specific economic, legal, social, technological, and other considerations which support approval of the project.

9.1 Adoption of Overriding Considerations

The District adopts this statement of overriding considerations and finds that the project has substantially lessened all significant impacts where feasible, and the remaining unavoidable impacts of the project are acceptable in light of the economic, legal, social, technological, and other considerations set forth herein, as the benefits of the project outweigh the significant adverse impacts of the project. The District finds that each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefit of the project outweighs the significant adverse environmental impacts. This is supported by substantial evidence in the record that includes, but is not limited to, the Final EIR, staff reports and analysis, and other documents referenced in this statement of overriding considerations and its adopting resolution.

9.2 Benefits of the Project

The District finds that the project's unavoidable potential significant environmental impacts are outweighed by these considerable benefits.

- The proposed project will advance the goal articulated in the Port's mission statement that provides: "While protecting the Tidelands Trust resources, the District will balance economic benefits, community services, environmental stewardship, and public safety on behalf of the citizens of California." The proposed project meets all aspects of the Port's mission statement.
- The proposed project will create a wetland mitigation bank that produces revenue by offering the business community and government agencies the opportunity to purchase predeveloped wetland mitigation credits to mitigate project impacts on wetland habitat.
- The proposed project will enhance ecological functions at the Bank Parcel by providing forage and nesting habitat for native bird species and habitat for native fish species while also creating additional environmental co-benefits such as, but not limited to, carbon sequestration, nutrient cycling, and water quality filtration.
- The proposed project will increase employment opportunities within the region by providing approximately 36 temporary jobs during a 17-month construction period for the wetland mitigation bank.
- Any future commercial development on Parcels A, B, and C would increase employment opportunities in the area by generating temporary construction jobs, as well as long-term jobs.
- The proposed project will stimulate economic growth for the District, City of Imperial Beach, and City of San Diego and will develop economically feasible land uses in the project area.
- The proposed project will reduce the chance and scale of flooding within the surrounding off-site area through the Bank Parcel under the existing condition by designing greater capacity to contain stormwater and coastal waters within the Bank Parcel.
- The proposed project will incorporate the District-owned Bank Parcel (Parcel A, B, and C) into the PMP and assign a land use designation compliant with the Port Act and California Coastal Act.
- The proposed project will increase the District's ability to attract new business and stay competitive.
- The proposed project will maintain and promote the District's long-standing commitment to public access to the waterfront by permitting a variety of visitor-serving uses.
- The proposed project will increase the amount of rent the District may receive as a result of new businesses, tenants, and/or lease renewals.
- The proposed project will provide a benefit to the community by incorporating energy conservation and sustainability features into its design and construction that will provide energy and water efficiency as required by Title 24 of the California Code of Building Regulations.
- Although the proposed project cannot mitigate the unavoidable environmental impacts to a level below significant, the proposed project will implement design features and mitigation measures intended to minimize, to the extent feasible, the potential direct and cumulative

impacts related to GHG emissions, noise, and transportation associated with the proposed project, as set forth in the MMRP.

9.3 Conclusion

The District has weighed the benefits of the project against the project's potential unavoidable, significant environmental risks in determining whether to approve the project. After balancing the specific economic, legal, social, technological, and other benefits of the project, the Board has determined that the specific benefits identified outweigh the significant unavoidable environmental impacts of the project. Each benefit, as well as the fulfillment of the objectives of the approved project, as stated herein, is determined to be a separate and independent basis for overriding the unavoidable significant environmental impacts identified above. Therefore, for the above reasons, the District finds that the project's benefits outweigh the potentially significant unavoidable environmental impacts.

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PORT of SAN DIEGO

San Diego Unified Port District

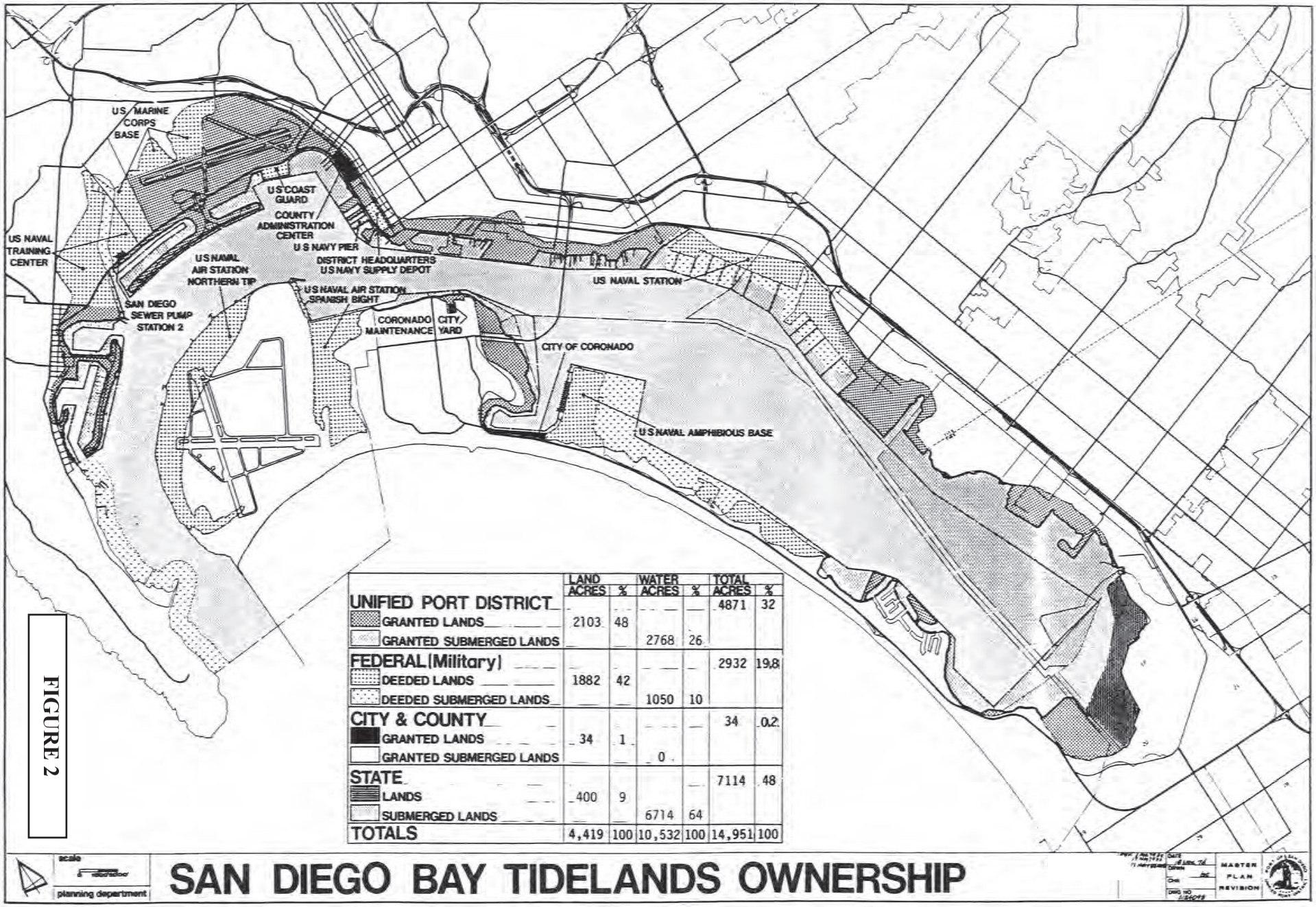
DRAFT

Wetland Mitigation Bank at Pond 20 Port Master Plan Amendment

Existing/Proposed Plan Text

April 2021

Note: Text to be deleted shown ~~stricken~~ and text to be added shown underlined.



	LAND ACRES	%	WATER ACRES	%	TOTAL ACRES	%
UNIFIED PORT DISTRICT					4871	32
GRANTED LANDS	2103	48				
GRANTED SUBMERGED LANDS			2768	26		
FEDERAL (Military)					2932	19.8
DEEDED LANDS	1882	42				
DEEDED SUBMERGED LANDS			1050	10		
CITY & COUNTY					34	0.2
GRANTED LANDS	34	1				
GRANTED SUBMERGED LANDS			0			
STATE					7114	48
LANDS	400	9				
SUBMERGED LANDS			6714	64		
TOTALS	4,419	100	10,532	100	14,951	100

FIGURE 2

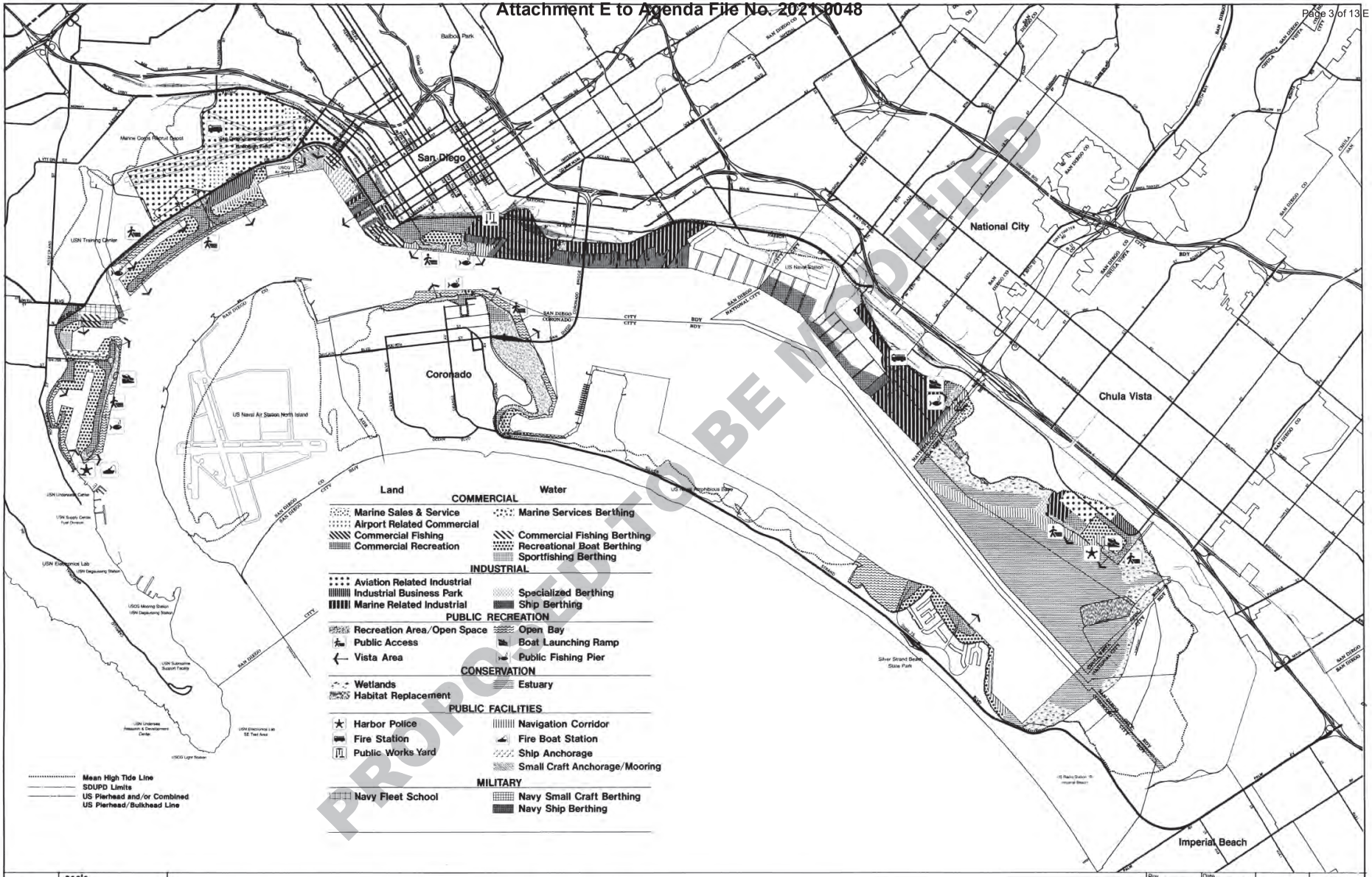
scale

planning department

SAN DIEGO BAY TIDELANDS OWNERSHIP

MASTER PLAN REVISION

Note: This map and legend do not include the approximately 95-acre Pond 20 site at the southern end of San Diego Bay.



scale
0 2000 feet
0 500m 1km
Planning Department

LAND AND WATER USE ELEMENT

Figure 2a

Rev
P 18 DEC 79 - KS
P 17 July 85 PC
P 12 AUG 92 MMM
Date 17 DEC 79
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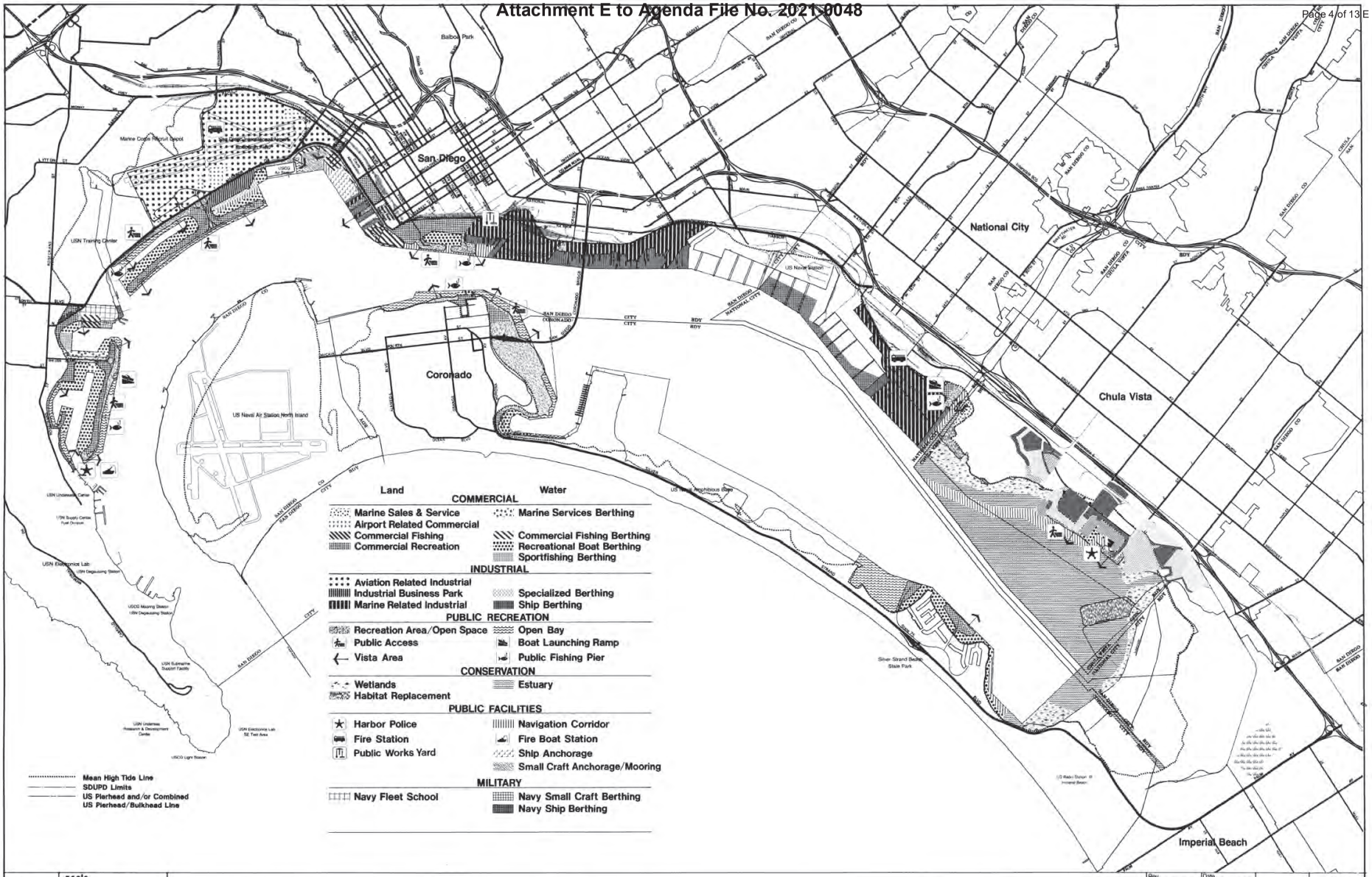
Master Plan



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0 2000 feet
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Planning Department

LAND AND WATER USE ELEMENT

Figure 2a

Rev
P. 18 DEC. 79 KS
P. 17 July 85 KS
P. 12 AUG. 92 HMW

Date 17 DEC. 79
Drn. CHK
Base
No

Master Plan

PORT OF SAN DIEGO UNIFIED PORT DISTRICT

TABLE 1 FROM CURRENT PMP

TABLE 1: SAN DIEGO BAY TIDELANDS BY OWNERSHIP

	LAND		WATER		TOTAL	
	Acres	%	Acres	%	Acres	%
Federal (military)	1,882	~~43.0~~42.0	1,050	10.0	2,932	19.8
State of California	12	0.3	6,490	61.0	6,502	43.0
County and City	34	0.7	0	0	34	0.2
Unified Port District	~~2,491~~2,574	~~56.0~~57.0	2,992	29.0	~~5,483~~5,566	37.0
Totals	**~~4,419~~4,502**	**100**	**10,532**	**100**	**~~14,951~~15,034**	**100**

TABLE 3 FROM CURRENT PMP

TABLE 3: EXISTING TIDELANDS AND SUBMERGED LANDS CONVEYED OR GRANTED TO THE SAN DIEGO UNIFIED PORT DISTRICT

	SAN DIEGO	NATIONAL CITY	CHULA VISTA	CORONADO	TOTALS
Shoreline (in miles)	16.6	2.8	4.8	8.9	33.1
Tidelands * (in acres)	~~1,550.8~~1,634.3	396.0	209.7	313.2~~2,469.7~~2,553.2	
Submerged Lands (in acres)	868.0	286.1	1,479.8	379.4	3,013.3
Total (in acres)	**~~2,418.8~~2,502.3**	**682.1**	**1,689.5**	**692.6~~5,483.0~~5,566.5**	

** Includes 421.3 acres of salt ponds.*

TABLE 4 FROM CURRENT PMP

TABLE 4: PORT MASTER PLAN LAND AND WATER USE ALLOCATION SUMMARY

LAND USE	*ACRES*	*WATER USE*	*TOTAL ACRES*	*ACRES*	*% of TOTAL*
COMMERCIAL	**457.9**	**COMMERCIAL**	**388.6**	**846.5**	**~~15~~14.7~~9~~%**
Marine Sales and Services	9.1	Marine Services Berthing	17.7		
Airport Related Commercial	38.0				
Commercial Fishing	8.3	Commercial Fishing Berthing	18.8		
Commercial Recreation	398.2	Recreational Boat Berthing	341.0		
Sportfishing	4.3	Sportfishing Berthing	11.1		
INDUSTRIAL	**1163.8**	**INDUSTRIAL**	**212.0**	**1375.8**	**24%**
Aviation Related Industrial	152.9	Specialized Berthing	164.8		
Industrial Business Park	69.5	Terminal Berthing	47.2		
Marine Related Industrial	323.7				
Marine Terminal	149.6				
International Airport	468.1				
PUBLIC RECREATION	**407.5**	**PUBLIC RECREATION**	**681.3**	**1088.8**	**19%**
	[413.7*]			**[1095.0*]**	
Open Space	66.9	Open Bay/Water	681.3		
Park/Plaza	211.0				
	[217.2*]				
Golf Course	97.8				
Promenade	31.8				
CONSERVATION	**~~485.3~~568.8**	**CONSERVATION**	**1084.6**	**~~1569.9~~1653.4**	**~~28~~28.8%**
Wetlands	~~375.8~~459.3	Estuary	1084.6		
Habitat Replacement	109.5				
PUBLIC FACILITIES	**236.3**	**PUBLIC FACILITIES**	**387.9**	**624.2**	**10.9~~4~~%**
Harbor Services	2.6	Harbor Services	10.5		
City Pump Station	0.4	Boat Navigation Corridor	274.3		
Streets	233.3	Boat Anchorage	25.0		
		Ship Navigation Corridor	53.9		
		Ship Anchorage	24.2		
MILITARY	**25.9**	**MILITARY**	**125.6**	**151.5**	**2.6~~3~~%**
Navy Fleet School	25.9	Navy Small Craft Berthing	6.2		
		Navy Ship Berthing	119.4		
TOTAL LAND AREA	**~~2776.7~~2,860.2**	**TOTAL WATER AREA**	**2880.0**		
MASTER PLAN LAND AND WATER ACREAGE TOTAL				**~~5656.7~~5,740.2****	**100%**

**Includes 6.3 acres of rooftop park/plaza & inclined walkway*

*** Does not include 6.3 acres of rooftop park/plaza & inclined walkway*

SOUTH BAY SALT LANDS:

PLANNING DISTRICT 9

Precise Plan Concept

Planning District 9 comprises the land and water areas at the extreme southerly end of San Diego Bay. The land is uniformly flat except for the slight elevations of the salt pond dike network. The water is very shallow. Because of an unusual annexation history, parts of three cities - San Diego, National City and Coronado - occupy this Planning District and the political boundaries of two other cities - Chula Vista and Imperial Beach - form mutual borders with the outside edges of the Planning District.

Identified concerns in land use planning include: the compatibility and routing of access corridors for pedestrian and bike path extensions around the bay; a localized desire for a public launching and marina facility, befitting the amenities and resources of a small coastal city which currently has no marina facilities; and the possible transition of land use from the industrial production of salt to mariculture, or a return of the area to a natural bay for wildlife preservation or wetland mitigation banking. The Plan Concept proposes the utilization of the area for habitat conservation and ~~to retain~~the retention of the open space character of South San Diego Bay.

Land and Water Use Allocations

A total of approximately ~~798~~ 881 acres of Port District tidelands is included in this Planning District. Use allocations proposed include wetlands, and estuary and salt ponds, and follow the basic use guidelines discussed in Section III of the Master Plan under the Conservation categories~~y~~.

South Bay Salt Lands Planning Subareas

In the following narrative, the Planning District has been divided into four subareas ***(Figure 24)***, to focus attention upon conditions and plan concepts for small areas.

Wildlife Preserve

This subarea is unleased and is proposed to be set aside and possibly enhanced for conservation purposes. The subarea is primarily shallow water, although an 8.5-acre parcel of vacant land, located at the northwest corner of the Planning District and adjacent to State Highway 75, is included. Immediately to the south of the parcel, on uplands, is an area managed by the County of San Diego as a wildlife preserve and nature interpretive area. The plan allocation would add to this conservation area.

Coronado Salt Ponds and South Bay Salt Ponds

Most of Planning District 9 was leased prior to the formulation of the Port District directly from the State of California by Western Salt Company for the production of salt through evaporation. The leased areas comprise these two planning subareas. Existing State law provides that the 612.23-acre lease of water and salt ponds will revert to State control in 1984. As was mentioned in Section I *(page 6)*, the transfer will increase State controlled tidelands in San Diego Bay to about 48 percent of the total. The Department of Fish and Game will be given management responsibility and will need to address the multiple demands in the area for a continuation of salt production, a reversion to a natural bay, the potential for mariculture, and whether marina facilities for Imperial Beach are possible. Until that time, the Master Plan recommends continuation of the current environment. When the management plan for the area is designed by the State Department of Fish and Game, the Port District should be advised so that nearby developments will be coordinated.

South Bay Salt Ponds

This subarea includes both leased and unleased areas. A parcel is leased to San Diego Gas and Electric Company for a warm water outlet and dispersal area as part of the South Bay Power Generating Plant operation. The remaining area is submerged bay tidelands, including the terminus channel of the Otay River. The water area remaining under Port District control is included in the Estuary classification.

Pond 20

This subarea is unleased and was purchased by the District in 1998 from the Western Salt Company. This was part of a larger land acquisition, the majority of which was transferred to the California State Lands Commission and includes a lease to the United States Fish & Wildlife Service to create the South San Diego Bay Unit of the National Wildlife Refuge. The District retained ownership rights to this subarea pursuant to California Senate Bill 1896 (2002), with the charge of utilizing the area for economic development, subject to the Public Trust Doctrine.

The 83.5 acre site referred to as the Bank Parcel would include a 76.5 acre wetland mitigation bank located on the southern portion of the former salt evaporation pond known as Pond 20, the surrounding berms, as well as a portion of Nestor Creek and a portion of the Otay River Tributary. Establishment of the wetland mitigation bank would include the creation and on-going maintenance and monitoring of tidal wetland habitat and upland buffer habitat. To reconnect tidal hydrology to the wetland mitigation bank, a berm breach of approximately 75 feet in length would occur at the northwestern portion of the Bank Parcel and would be partially within the San Diego National Wildlife Refuge. After the berm is breached, the network of constructed tidal channels would facilitate distribution of tidal flows to the mitigation bank. Implementation of the wetland mitigation bank would allow the District to establish a mitigation credit program that could compensate for future off-site impacts from other public and private development projects under Section 404 of the Clean Water Act, the California Coastal Act, the Porter-Cologne Water Quality Control Act, and the California Eelgrass Mitigation Policy. The wetland mitigation bank would complement surrounding land uses by expanding valuable wetland habitat adjacent to the San Diego Bay National Wildlife Refuge, providing essential wetland functions and services for adjacent communities, including storm surge, flood protection, and stormwater buffering.

TABLE 22 FROM CURRENT PMP

TABLE 22: Precise Plan Land and Water Use Allocation
SOUTH BAY SALT LANDS: PLANNING DISTRICT 9

~~This subarea is predominantly submerged bay tidelands, including the terminus channel of the Otay River. The water area remaining under Port District control is included in the Estuary classification.~~

LAND USE	ACRES	WATER USE	ACRES	TOTAL ACRES	% of TOTAL
CONSERVATION	275.5~~192.0~~	CONSERVATION	605.5	~~797.5~~881	100%
Wetlands	~~192.0~~275.5	Estuary	185.3		
		Salt Ponds	420.2		
TOTAL LAND AREA	**275.5~~192~~**	**TOTAL WATER AREA**	**605.5**		
PRECISE PLAN LAND AND WATER ACREAGE TOTAL				**~~797.5~~881**	**100%**

Project List

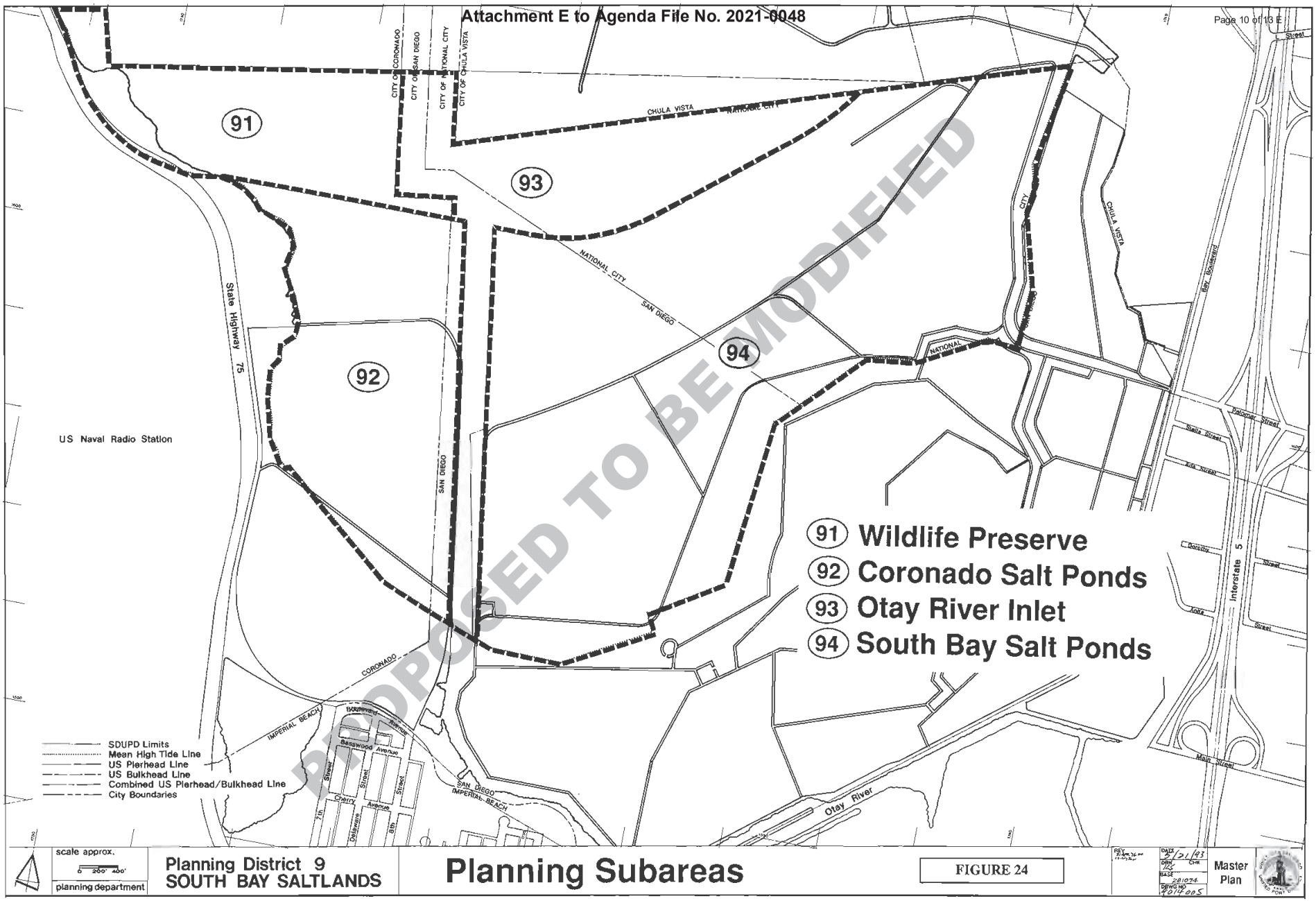
~~No specific projects are identified, although it is anticipated that some environmental enhancement or mitigation project may be identified later as plans are implemented around the bay.~~

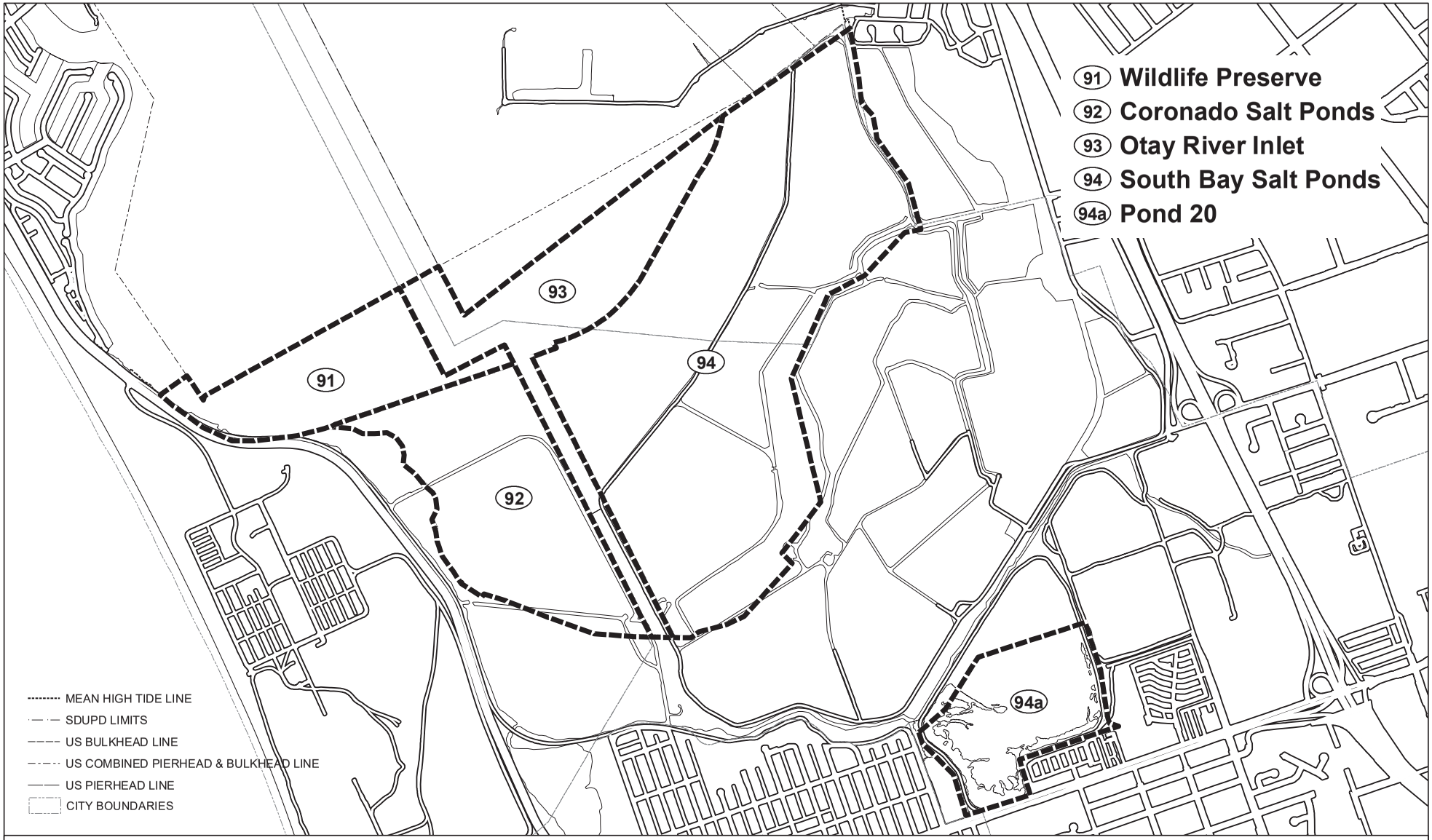
SOUTH BAY SALT LANDS:

PLANNING DISTRICT 9

	SUBAREA	DEVELOPER	APPEALABLE	FISCAL YEAR
1. WETLAND MITIGATION BANK: Create wetland and upland buffer habitat to be used as a mitigation bank	94a	P	N	2022-23

P – Port District N – No


91
92
93
94
CITY OF CORONADO
CITY OF SAN DIEGO
CITY OF NATIONAL CITY
CITY OF CHULA VISTA
CHULA VISTA
NATIONAL CITY
SAN DIEGO
State Highway 75
US Naval Radio Station
CORONADO
IMPERIAL BEACH
Bay Boulevard
Palomar Street
Interstate 5
Main Street
Otay River
PROPOSED TO BE MODIFIED
91 Wildlife Preserve
92 Coronado Salt Ponds
93 Otay River Inlet
94 South Bay Salt Ponds
SDUPD Limits
Mean High Tide Line
US Pierhead Line
US Bulkhead Line
Combined US Pierhead/Bulkhead Line
City Boundaries
scale approx.
0 200' 400'
planning department
Planning District 9
SOUTH BAY SALTLANDS
Planning Subareas
FIGURE 24
Master Plan

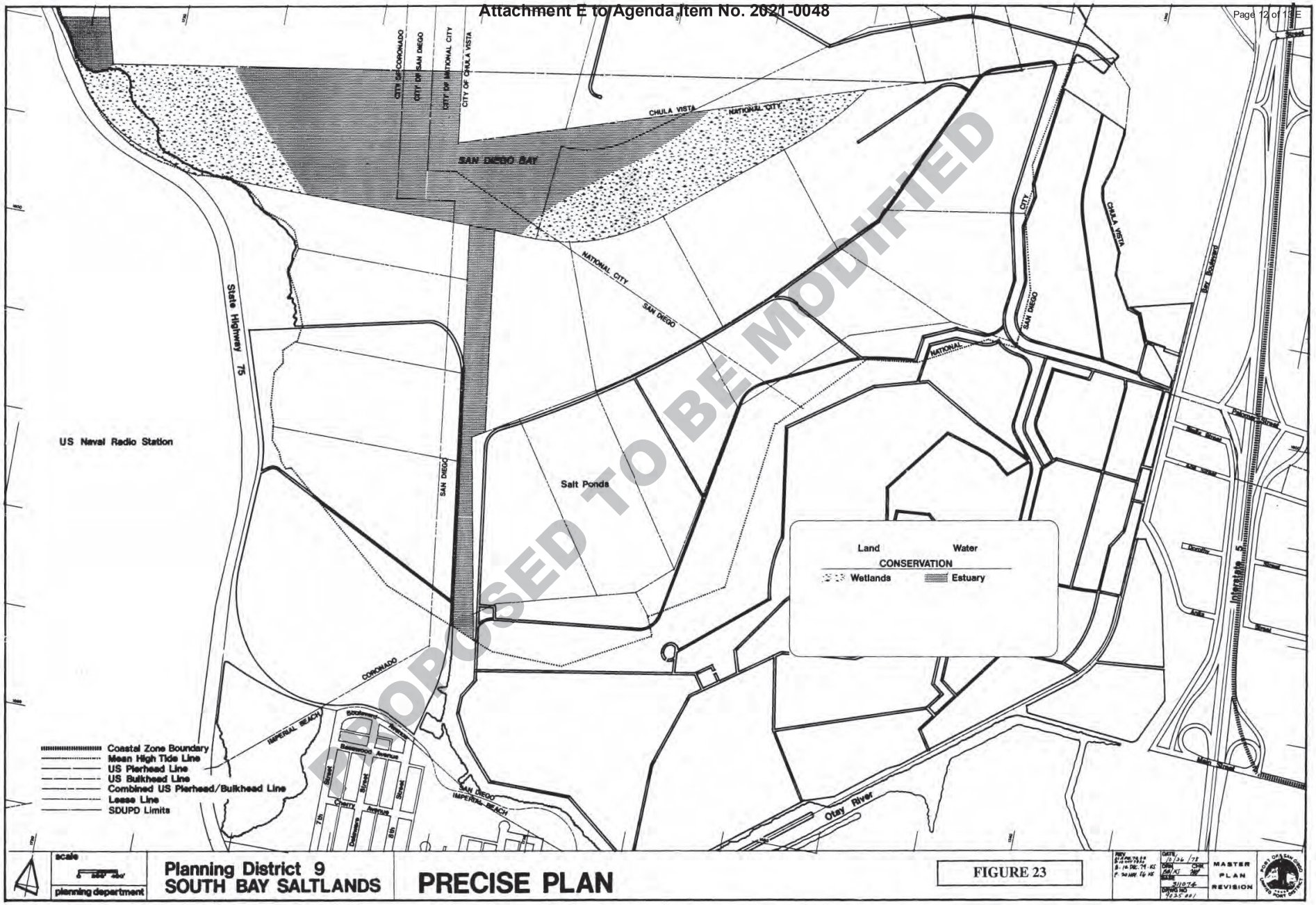


Planning District 9
SOUTH BAY SALTLANDS

Planning Subareas

Figure 24

DRAFT



Planning District 9

SOUTH BAY SALTLANDS

PRECISE PLAN

Figure 23

DRAFT

BPC Policy No. 774

SUBJECT: POND 20 ECONOMIC DEVELOPMENT FUND ("Pond 20 EDF")

PURPOSE: To establish a policy for the collection and distribution of net revenue received by the San Diego Unified Port District ("District") from mitigation banking or other revenue generating uses or development which may occur on fourthree defined parcels in south San Diego Bay, including the southern portion of Pond 20 (Bank Parcel) and three adjacent District-owned parcels (Parcels A, B, and C), shown on Attachment A (collectively, the Bank Parcel and Parcels A, B, and C are referred to as "Pond 20") of Pond 20.

PREAMBLE: The District manages the state tidelands and submerged lands it owns for the benefit and enjoyment of the people of the state of California in accordance with the Port Act.

Over the course of more than 15 years, the District has conducted numerous public outreach processes and professional evaluation to determine the highest and best use of Pond 20, with guidance from a Memorandum of Understanding ("MOU") between the District, the City of Imperial Beach, and City of San Diego. As a result, the District hasis determined that a mix of mitigation banking and commercial development is the best use for Pond 20.

The Board of Port Commissioners ("Board") desires to establish the Pond 20 EDF in which to place the District's net revenue from Pond 20 development, after reimbursement to the District for all costs and expenses, and after the District has received a reasonable rate of return. A reasonable rate of return shall be defined on a project-by-project basis when a project is approved by the Board. The Pond 20 EDF funds may be spent on economic development and public improvement projects in the City of Imperial Beach and in adjacent portions of the City of San Diego's City Council District 8, in accordance with the Port Act.

BACKGROUND OF POND 20: Pond 20The Bank Parcel and Parcels A, B, and C covers approximately 95.13 acres and is located at the southern end of San Diego Bay in the City of San Diego, adjacent to the City of Imperial Beach.

The site was purchased by the District in October 1998 as part of the 836-acre Western Salt land acquisition. Of the 836 acres, 722 acres were transferred to the State of California as off-site mitigation for the expansion of the Lindbergh Field, now called San Diego International Airport, leading to the creation of the South San Diego Bay National Wildlife Refuge. The remaining 114 acres were vested in the District for future

development in accordance with the Public Trust. When the San Diego County Regional Airport Authority ("Airport Authority") was established as a separate agency from the District in 2003, State Senate Bill 1896 provided that the District retain ownership of approximately 95~~.13~~ acres ~~(~~Bank Parcel and Parcels A, B, and C)~~of Pond 20~~, with reimbursement for the costs of the land to the Airport Authority.

It has been determined that the highest and best use of the approximately 83.5 acre Bank Parcel site would be for mitigation banking, including 76.5 acres available for wetland credits and seven acres for wetlands buffers. Parcels A (2.7 acres), B (1 acre), and C (8 acres) would be suitable for revenue generating development including commercial uses, as feasible.

~~Pond 20 consists of Parcel A, which is 3.10 acres, and Parcel C, which is 7.90 acres, and both have been designated for suitable for commercial development. Parcel B is an 84.13-acre central basin, of which 80 acres have a highest and best use as a wetland mitigation bank. (Exhibit A)~~

ESTABLISHMENT OF THE EDF: The Pond 20 EDF is hereby established. Annually, the District shall transfer to the Pond 20 EDF all net revenue derived from ~~Pond 20~~the Bank Parcel and Parcels A, B, and C ~~remaining~~ after reimbursement to the District for all costs, expenses, and reasonable return related thereto. All funds transferred to the EDF shall be equally divided between two sub-funds – one designated for projects in the City of Imperial Beach and one for projects in the adjacent portion of the City of San Diego's City Council District 8. Projects funded by the Pond 20 EDF must comply with the criteria and process below.

PROJECT CRITERIA: Projects eligible for the Pond 20 EDF funding must: (1) comply with the Port Act, and (2) generate jobs, or economic benefit, or (3) constitute a public improvement within the City of Imperial Beach and adjacent portion of San Diego's City Council District 8.

PROCESS FOR APPLYING FOR THE EDF: Pond 20 EDF project applications may be submitted for funding by the City of Imperial Beach and the City of San Diego Council District 8 Councilmember ~~from the adjacent San Diego City Council District~~, the Board, and public entities. Each applicant may only submit projects requesting use of ~~the~~ each City's applicable sub-fund. However, joint project applications may be submitted. Applications for Pond 20 EDF funding should present as much information and detail as available to the applicant. At a minimum, applications must include the following:

A) A project description, including a statement of need for the project, amount of Pond 20 EDF funding requested, a budget for the project, and the amount and sources of non-Pond 20 EDF funding, including documented in-kind services;
B) An explanation or description of what economic improvements or public benefit the project is expected to produce; and

C) An explanation for why the amount of Pond 20 EDF funding requested is reasonable in light of the expected return on the investment or the degree of public benefit.

District staff will coordinate with applicants to review and clarify the application prior to consideration by the Board. However, it is the responsibility of the applicant to present as much information as available when completing the application. The funds will be disbursed in accordance with an EDF funding agreement.

EDF PROJECT SELECTION: Applications for Pond 20 EDF support can be proposed at any time after the fund is activated. District staff will review the applications and present them to the Board on a periodic basis.

The District will develop administrative procedures to more fully set forth the application, staff review, and Board presentation process.

All approved Pond 20 EDF projects must obligate funding within 36 months, and the period of performance will be no longer than five years from the date of execution of an Pond 20 EDF funding agreement with the applicant.

Board approval of funding for Pond 20 EDF projects may be subject to further consideration or approval by the State Lands Commission; environmental analysis under the California Environmental Quality Act and other laws; consistency with the Coastal Act; other needed entitlements; execution of an agreement between the District and applicant; and other requirements, as applicable.

REPORTING TO THE BOARD: The Executive Director will report to the Board periodically on the status of approved Pond 20 EDF projects. The report will contain the list of approved Pond 20 EDF projects, funds expended to date, overall EDF fund obligated balance, new projects submitted, and the status of –Pond 20 EDF project reviews.

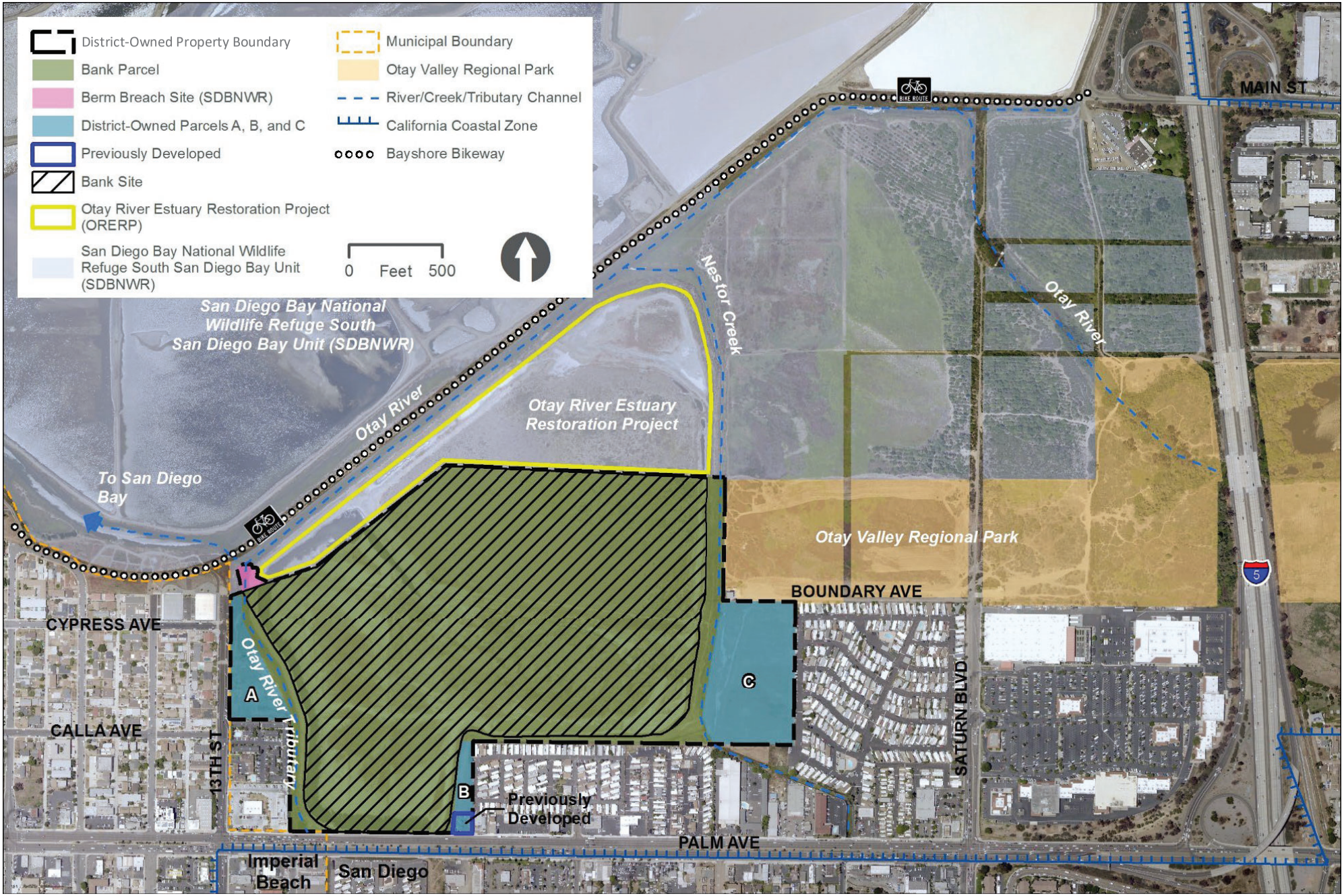
RESOLUTION NUMBER AND DATE: 2015-151, dated November 17, 2015

Original 2015 - Figure to Be Replaced

EXHIBIT A

64246

4


District-Owned Property Boundary
Bank Parcel
Berm Breach Site (SDBNWR)
District-Owned Parcels A, B, and C
Previously Developed
Bank Site
Otay River Estuary Restoration Project (ORERP)
San Diego Bay National Wildlife Refuge South San Diego Bay Unit (SDBNWR)
Municipal Boundary
Otay Valley Regional Park
River/Creek/Tributary Channel
California Coastal Zone
Bayshore Bikeway
0 Feet 500
San Diego Bay National Wildlife Refuge South San Diego Bay Unit (SDBNWR)
Otay River
Otay River Estuary Restoration Project
Nestor Creek
Otay River
MAIN ST
To San Diego Bay
Otay Valley Regional Park
BOUNDARY AVE
CYPRESS AVE
CALLA AVE
13TH ST
Otay River Tributary
A
B
C
Previously Developed
SATURN BLVD
PALM AVE
Imperial Beach
San Diego
5

RESOLUTION 20xx-xxx

RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING THE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING THE FILING OF THE NOTICE OF DETERMINATION FOR WETLAND MITIGATION BANK AT POND 20 AND PORT MASTER PLAN AMENDMENT

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, Section 21 of the Port Act states that the Board of Port Commissioners (Board) may pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, Section 35 of the Port Act states that the Board may do all other acts necessary and convenient for the exercise of its powers; and

WHEREAS, the Project Site is comprised of approximately 95 acres (inclusive of the Bank Parcel and Parcels A, B, and C), located at the southernmost portion of San Diego Bay, within the limits of the City of San Diego and adjacent to Imperial Beach; and

WHEREAS, the Project Site historically supported open space and wetland habitats until at least 1870, when salt evaporation and extraction industry began operations in south San Diego Bay; and

WHEREAS, the Project Site was purchased by the District in 1998 from Western Salt Company as part of a 1,400-acre land acquisition; and

WHEREAS, after the San Diego County Regional Airport Authority became a separate agency from the District in 2003, the District retained ownership rights to the Project Site, as provided in the SB 1896 (2002), with the intent of utilizing the Project Site for future development, subject to consistency with the Public Trust Doctrine; and

WHEREAS, the Bank Parcel (83.5 acres) which includes the wetland mitigation bank and the surrounding berms and portions of Nestor Creek and the Otay River Tributary, as well as Parcels A (2.7 acres), B (1 acre), and C (8 acres) are located on District-owned property and are currently not incorporated into the Port Master Plan (PMP); and

WHEREAS, an Environmental Impact Report (EIR) was prepared to evaluate potential impacts associated with the proposed project which includes (1) incorporating the Bank Parcel into the PMP and assigning a “wetlands” land use designation, as well as creating a wetland mitigation bank within the Bank Parcel, and (2) incorporating Parcels A, B, and C into the PMP and assigning a “commercial recreation” land use designation (collectively, the Project); and

WHEREAS, a 76.5 acre wetland mitigation bank (Mitigation Bank) is proposed within the Bank Parcel, which involves the creation, restoration, and on-going maintenance and monitoring of tidal wetland habitat and upland buffer habitat; and

WHEREAS, the creation of a wetland mitigation bank on the Bank Parcel, as well as the incorporation of the Bank Parcel into the PMP, are evaluated at a project level in the EIR; and

WHEREAS, incorporation of Parcels A, B, and C are evaluated in the EIR at a programmatic or conceptual level because the specific details of any future development proposal are unknown; however, to analyze potential impacts associated with the designation of Parcels A, B, and C as “commercial recreation” the EIR assumed a conservative development assumptions of buildout potential of Parcels A, B, and C under such designation; and

WHEREAS, because no specific project(s) is proposed for Parcels, A, B, or C, the EIR indicates that at the time a specific project is proposed on one or more of Parcels A, B, or C, a Port Master Plan Amendment (PMPA) would be required, prior to development; and

WHEREAS, as the Lead Agency under the California Environmental Quality Act (CEQA), the District determined the Project required an EIR; and

WHEREAS, a Draft EIR was prepared and circulated for public review and comment beginning on August 20, 2020 and ending October 5, 2020; during this review period, the District received twelve comment letters; and

WHEREAS, the comment letters and responses to all written comments received on the Draft EIR are included in the Final EIR; and

WHEREAS, in response to the comments received during the public review period, the Final EIR includes minor clarifications and corrections to the Project, mitigation measures, and revisions to figures; and

WHEREAS, the Final EIR and Mitigation Monitoring and Reporting Program (MMRP) (Attachment A) were prepared in accordance with CEQA, the State CEQA Guidelines, and the District’s Guidelines for Compliance with CEQA; and

WHEREAS, the Final EIR and MMRP were provided to the Board on April 1, 2021; and

WHEREAS, CEQA and the State CEQA Guidelines require a lead agency to make certain findings in conjunction with approving any project for which an EIR was prepared, and where the EIR shows that the project may have significant adverse impacts on the environment; and

WHEREAS, the EIR identified potentially significant impacts that can be reduced to a less than significant level; and

WHEREAS, as identified in the EIR and MMRP, even with implementation of all feasible mitigation measures, significant impacts that cannot be avoided or reduced to a less than significant level (greenhouse gas emissions and vehicle miles traveled), whether through mitigation measures or project alternatives, remain significant and unavoidable; and

WHEREAS, given the conclusions of the EIR, pursuant to CEQA Guidelines §§ 15091, 15093, and 15097, the District prepared CEQA Findings of Fact, a Statement of Overriding Considerations (SOC), and an MMRP; and

WHEREAS, accordingly, CEQA Findings of Fact and SOC (Attachment B) were provided to the Board on April 8, 2021; and

WHEREAS, the CEQA Findings of Fact set forth the facts and the findings of the District regarding the potential environmental impacts of the Project that can feasibility be mitigated to a less than significant level through the imposition of mitigation measures included in the MMRP, as well as those that the District has determined cannot be feasibly be avoided or mitigated to a less than significant level; and

WHEREAS, the EIR considered three project alternatives that would avoid or substantially lessen one or more significant environmental impact; and

WHEREAS, the CEQA Findings of Fact also includes findings regarding the feasibility of the three alternatives to the Project that were examined in the EIR and considered by the District as part of its deliberations on the EIR Project; and

WHEREAS, the SOC balances the specific environmental, planning, fiscal, and other benefits of the Project against the significant and unavoidable environmental impacts and states the reasons, as supported by facts, supporting the Board’s action on the Project; and

WHEREAS, prior to action on the Project, the Board has considered the significant impacts and project alternatives identified in the Final EIR; and

WHEREAS, the Board has read and considered all environmental documentation comprising the Final EIR, including the comments and the responses to comments and MMRP, and SOC and has found that the Final EIR considers all potentially significant environmental impacts of the Project, and is complete and adequate, and fully complies with all requirements of CEQA, the State CEQA Guidelines, and the District's Guidelines for Compliance with CEQA.

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

1. The Board finds the facts recited above are true and further finds that this Board has jurisdiction to consider, approve and adopt the subject of this Resolution.

2. The Board finds and determines that the applicable provisions of CEQA, its implementing State Guidelines, and District Guidelines have been duly observed in conjunction with the considerations of this matter and all of the previous proceedings related thereto.

3. The Board finds and determines that, pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, the Board hereby makes and adopts the findings with respect to each significant environmental effect as set forth in the CEQA Findings of Fact, appended hereto as Attachment B and made a part hereof by this reference, and declares that it considered the evidence described in connection with each such finding.

4. The Board finds and determines that (a) the Final EIR is complete and adequate in scope and has been completed in compliance with CEQA and the State and District Guidelines for implementation thereof, (b) the Final EIR was presented to the Board, and the Board has fully reviewed and considered the information in Final EIR prior to taking action on the Project, (c) the Final EIR reflects the District's independent judgment and analysis, and, therefore, the Final EIR is hereby declared to be certified in relation to the subject of this Resolution.

5. Pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15091(d), the Board hereby adopts and approves the Mitigation Monitoring and Reporting Program, which is appended hereto as Attachment A and is made a part hereof by this reference, with respect to the significant environmental effects identified in the Final EIR, and resolves that the provisions of the Mitigation Monitoring and Reporting Program will be made conditions of approval for the Project.

6. The Board further finds and determines that despite the existence of certain unavoidable significant environmental effects identified in the Final EIR, and, pursuant to Public Resources Code section 21081(b) and CEQA Guidelines section 15093, the Board hereby makes and adopts the Statement of Overriding

Considerations appended hereto as Attachment B and made part hereof by this reference, and finds that such effects are considered acceptable because the benefits of the Project outweigh the unavoidable environmental effects.

7. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15094, the Clerk of the Board 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. Unless the Project is declared exempt herein and a Certificate of Filing Fee Exemption is on file, the Project is not operative, vested or final until the filing fees required pursuant to Fish and Game Code Section 711.4 are paid to the Clerk of the County of San Diego.

8. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e), the location and custodian of the documents and other materials which constitute the record of proceedings on which this Resolution is based is the Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California 92101.

Attachments:

Attachment A: Mitigation Monitoring and Reporting Program
Attachment B: Findings of Fact and Statement of Overriding Considerations

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

_____
By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of April 2021, by the following vote:

Attachment A

Mitigation Monitoring and Reporting Program

Section 21081.6 of the Public Resources Code requires a lead agency to adopt a "reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment" (Section 15097 of the California Environmental Quality Act (CEQA) Guidelines provides additional direction on mitigation monitoring or reporting). As lead agency for the proposed project, the San Diego Unified Port District (District) is responsible for administering and implementing the Mitigation Monitoring and Reporting Program (MMRP). The decision makers must define specific monitoring requirements to be enforced during project implementation prior to final approval of the proposed project. The primary purpose of the MMRP is to ensure that the mitigation measures identified in the Draft and Final Environmental Impact Report (EIR) are implemented, effectively minimizing the identified environmental effects.

Table 1 has been prepared to ensure compliance with all the mitigation measures identified in the Draft EIR and this Final EIR which would lessen or avoid potentially significant adverse environmental impacts resulting from the implementation of the proposed project. Each mitigation measure is identified in Table 1 and is categorized by topic and corresponding number, with identification of:

- Action Required – The criteria that would determine when the measure has been accomplished and/or the monitoring actions to be undertaken to ensure the measure has been implemented.
- Responsible Party – The entity accountable for implementing the action/deliverable.
- Timing for Mitigation Measure – The timing for implementation of the mitigation measure.
- Implementation Phase – The phase of the project when implementation would occur.
- Compliance Verification – The monitor verifies completion of the particular mitigation measure by initialing and dating this column. Conclusion of the monitoring program concludes when all required signatures are obtained in the compliance verification column.

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Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Aesthetics						
MM AES-1 Reduced Glare Building Materials. The commercial development project proponent shall incorporate non-reflective or reduced glare building materials in the design of any structures proposed for development on Parcels A, B, and C consistent with applicable municipal codes. Any glass incorporated into the design shall either be low reflectivity or accompanied by a non-glare coating. Prior to building permits being issued for construction, the District shall confirm reduced glare building materials are included on the appropriate building plans.	Incorporate non-reflective or reduced glare building materials into the design.	Project proponent	Prior to construction	Program Level		
	Verify non-reflective or reduced glare building materials have been incorporated into the building plans.	District				
MM AES-2 Shield or Downcast Nighttime Lighting. The commercial development project proponent shall ensure that all nighttime lighting, either for nighttime construction or security lighting, shall be shielded downward to avoid any light spillover off site and lighting shall be limited to an amount required for safety of construction personnel and security of construction equipment.	Incorporate lighting requirements into applicable construction documents.	Project proponent	Prior to construction	Program Level		
	Verify nighttime lighting is shielded or downcast.	District	During construction			
Biological Resources						
MM BR-1 Implement Biological Resource Protection Measures During Construction. The District (or project proponent) shall implement the following BMPs during construction to minimize direct and indirect impacts on special status species and their habitats.	Identify Project Biologist	District or project proponent	Prior to construction	Project Level and Program Level		
	Identify, fence, and monitor SHAs	Project biologist	Prior to construction and during construction			
	Prepare and conduct WEAP training	Project biologist	Prior to construction prepare WEAP			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
a) Prior to the commencement of construction, the District (or project proponent) shall designate a Project Biologist (a person with, at minimum, a bachelor's degree in biology, ecology, or environmental studies with familiarity with federally and/or state listed plant and wildlife species and other, nonlisted special status plant and wildlife species with the potential to be impacted by the project) who shall be responsible for overseeing compliance with the protective measures for biological resources identified herein during vegetation clearing and work activities within and abutting areas of native habitat. The Project Biologist shall be familiar with the local habitats, plants, and wildlife, and shall maintain communications with the contractor to ensure that issues relating to biological resources are appropriately managed. The Project Biologist may designate qualified biologists or biological monitors to help oversee project compliance or conduct the preconstruction surveys for special status species identified in MM BR-2, MM BR-4, and MM BR-8. These biologists shall have familiarity with the			training and during construction conduct WEAP training for all personnel onsite			
	Conduct preconstruction bird nesting surveys	Project biologist	If vegetation removal or initial ground disturbance occur during nesting bird season (February 1 to September 15)			
	• Ensure construction and construction equipment staging is limited to designated areas • Install wildlife-proof containers for garbage disposal • Use water to suppress fugitive dust • If maintenance is required onsite, conduct maintenance with proper BMPs • Implement a 15 mile per hour speed limit onsite • Ensure personnel do not bring pets onsite	Contractor	Daily during construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
species for which they would be conducting preconstruction surveys or monitoring construction activities. b) The Project Biologist or designated qualified biologist shall review final plans, designate areas not proposed for disturbance that need temporary fencing per subsection (h) below (e.g., SHA fencing), and monitor construction activities within and adjacent to areas with native vegetation communities or special status plant and wildlife species. The qualified biologist shall monitor activities during critical times such as vegetation removal, initial ground-disturbing activities, and the installation of BMPs and fencing to protect native species, and shall ensure that all wildlife and regulatory agency permit requirements, conservation measures, and general avoidance and minimization measures are properly implemented and followed. The qualified biologist shall monitor the SHA fencing and shall provide corrective measures to the contractor to ensure that the fencing is maintained throughout construction. The qualified biologist shall have the authority to stop work and redirect work if a special status wildlife species	• Ensure no plastic monofilament netting is used onsite • Implement the District's Integrated Pest Management Plan • Store hazardous materials and equipment within secondary containment overnight • Ensure vehicle refueling is conducted in upland areas and fuel containers are secured • Inspect vehicles and equipment for leaks					
	• Install wildlife escape ramps • Cover pipes, equipment, or other structures that could be used as a den	Contractor	At the end of each day during construction			
	Monitor to ensure construction and construction equipment staging is limited to designated	Project biologist	Daily during construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
is encountered within the project area during construction until the Project Biologist or qualified biologist determine(s) that the animal would not be harmed (i.e., no ground disturbing activities are proposed within 100 feet) or it has left the construction area on its own. Also see subsection (e) below. c) Prior to the start of construction, all project personnel and contractors who would be on site during construction shall complete mandatory training conducted by the Project Biologist or a designated qualified biologist. Any new project personnel or contractors that come on board after the initiation of construction shall also be required to complete the mandatory WEAP training prepared and conducted by the Project Biologist before they commence with work. The training shall advise workers of potential impacts on sensitive habitat and federally and/or state listed and other special status species and the potential penalties for impacts on such habitat and species. At a minimum, the training shall include the following topics: (1) occurrences of the special status species and sensitive vegetation communities in the project area (including vegetation communities	areas, wildlife-proof containers are used for garbage disposal, wildlife escape ramps installed, pipes or den-like structures are not inhabited, use of water to suppress fugitive dust, maintenance of equipment is conducted with proper BMPs, vehicles do not exceed 15 miles per hour onsite, no pets have been brought onsite, no plastic monofilament netting is used onsite, pest and weed management implemented, hazardous materials and equipment stored overnight is within secondary containment, vehicle refueling is conducted in upland areas and fuel containers are secured, inspect equipment and containers for leaks					

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
subject to ACOE, CDFW, and RWQCB jurisdiction), (2) protective measures to be implemented in the field, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced areas to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); (3) the protocol to resolve conflicts that may arise at any time during the construction process; and (4) reporting requirements and procedures to follow should a federally and/or state listed species be encountered during construction. d) The training program shall include color photos of federally and/or state listed species, other special status species, and sensitive vegetation communities. Following the education program, the photos shall be posted in the contractor and resident engineer's office where the photos shall remain throughout the duration of project construction. Photos of the habitat in which sensitive species are found shall be posted onsite. The contractor shall be required to provide the District with evidence of the employee training (e.g., a sign-in sheet) on request.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Project personnel and contractors shall be instructed to immediately notify the Project Biologist or designated biologist of any incidents that could affect sensitive vegetation communities or special status species. Incidents could include fuel leaks or injury to any wildlife. The Project Biologist shall notify the District of any incident within 24 hours of being noticed. e) Vegetation removal and initial ground disturbance shall occur outside of the bird nesting season (February 1 – September 15) if feasible. Should vegetation removal or initial ground disturbance be required during the bird nesting season, the Project Biologist must conduct a preconstruction nesting survey. Should active nests be present, a construction avoidance buffer of 300 feet is required until the young have fledged or the nest has failed naturally. The biologist may reduce the buffer if, in their professional judgment, topography or other factors mitigate potential impacts from construction vibration, noise, dust, and visual intrusion. For federally and state listed species, see MM BR-4.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
f) The Project Biologist shall have the authority to halt work, and redirect work if necessary to ensure the proper implementation of species and habitat protection. The Project Biologist shall report any noncompliance issues to the District within 24 hours of its occurrence. g) The Project Biologist shall monitor the project site immediately prior to and during construction to identify the presence of invasive weeds and shall recommend measures to avoid their inadvertent spread in association with the project. All construction equipment shall be washed and cleaned of debris prior to entering the construction site to minimize the spread of invasive weeds. h) All habitat regulated by CCC, ACOE, RWQCB, USFWS, NMFS, and/or CDFW, and habitat with potential to support special status species outside of, and abutting the designated project limits of disturbance shall be designated as SHAs on project maps. Prior to construction, the Contractor shall delineate the project limits, including construction, staging, lay-down, and equipment storage areas, and erect the construction boundary,						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
with fencing or flagging, along the perimeter of the identified construction area to protect adjacent sensitive habitats and sensitive-plant populations. SHAs shall be clearly delineated with fencing or flagging or other BMPs prior to construction to inform construction personnel where the SHAs are located and shall be confirmed by the Project Biologist or designated biologist prior to construction. SHAs fencing may include orange plastic snow fence, orange silt fencing, or stakes and flagging in areas of flowing water. No personnel, equipment, or debris shall be allowed within the SHAs. Fences and flagging shall be installed by Contractor in a manner that does not impact habitats to be avoided and such that it is clearly visible to personnel on foot and operating heavy equipment. 10 days prior to initiating construction, the Contractor shall submit to the District final plans for initial clearing and grubbing project construction. These final plans shall include photographs that show the fenced and flagged ESHA limits and all areas to be impacted or avoided. If work occurs beyond the fenced or demarcated limits of impact, all work shall cease until the problem has been remedied.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Temporary construction fences and markers shall be maintained in good repair by the Contractor during construction and shall be removed upon completion of project construction. i) No work activities, materials or equipment storage, or access shall be permitted outside the project limits without permission from the District. All parking and equipment storage by the contractor related to the project shall be confined to the project limits. Contractor shall not conduct work in undisturbed areas and sensitive habitat outside and adjacent to the project limits shall not be used for parking or equipment storage. Project-related vehicle traffic shall be restricted to the project limits and established roads and construction access points. j) Construction activities shall be limited to daylight hours to the extent feasible. If nighttime activities are unavoidable, then workers shall direct all lights for nighttime lighting into the work area and shall minimize the lighting of natural habitat areas adjacent to the work area. The contractor shall use light glare shields to reduce the extent of illumination into sensitive habitats. If the work area is located near surface						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
waters, the lighting shall be shielded such that it does not shine directly into the water. k) Clearing shall be confined to the minimal area necessary to facilitate construction activities. Cleared vegetation and spoils shall be disposed of daily at a permanent offsite spoils location or at a temporary onsite location that would not create habitat for special status wildlife species. Spoils and dredged material shall be disposed of at an approved site or facility in accordance with all applicable federal, state, and local regulations. l) Food-related and other garbage shall be disposed of in wildlife-proof containers and shall be removed from the project area daily during the construction period. Vehicles carrying trash or hauling dirt/sediment shall be required to have loads covered and secured to prevent dirt, trash, and debris from falling onto roads and adjacent properties. m) All construction equipment used for the project shall be maintained in accordance with manufacturer's recommendations, and requirements and shall be maintained to comply with						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
noise standards (e.g., exhaust mufflers, acoustically attenuating shields, shrouds, or enclosures). n) The Contractor shall store all construction-related vehicles and equipment in the designated staging areas. o) The Contractor shall avoid wildlife entrapment by completely covering or providing escape ramps for all excavated steep-walled holes or trenches more than 1 foot deep at the end of each construction workday. The qualified biologist shall inspect open trenches and holes and shall remove or release any trapped wildlife found in the trenches or holes prior to filling by the construction contractor p) Special status wildlife can be attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar features; construction equipment; or construction debris left overnight in areas that may be occupied by special status species that could occupy such structures shall be inspected by a qualified biologist prior to being used for construction. Such inspections shall occur at the beginning of each day's						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
activities for those materials to be used or moved that day. If necessary, and under the direct supervision of the biologist, the structure may be moved up to one time to isolate it from construction activities, until the special status species has moved from the structure of their own volition or has been captured and relocated. q) The spread of dust from work sites to sensitive natural communities or sensitive-species habitats on adjacent lands shall be minimized by use of a water truck. Dirt access roads, haul roads, and spoils areas shall be watered to prevent the spread of dust. Follow SWPPP to reduce dust emissions. r) The Contractor shall strictly limit their activities, vehicles, equipment, and construction materials to established roads and the project disturbance limits. Signs shall be posted within the staging area, non-paved access routes, and project site with a maximum 15 mile per hour speed limit. s) To prevent harassment, injury, or mortality of sensitive wildlife by dogs or cats, no canine or feline pets shall be permitted in the active construction area.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
t) Plastic monofilament netting or similar material shall not be used for erosion control because smaller wildlife may become entangled or trapped in it. Acceptable substitutes include coconut coir matting or tackifier hydroseeding compounds. This limitation shall be communicated to the contractor through specifications or special provisions included in the construction bid solicitation package. u) Pest and weed management shall be conducted in compliance with the District's Integrated Pest Management Plan. v) Hazardous materials and equipment stored overnight, including small amounts of fuel to refuel hand-held equipment, shall be stored within secondary containment per the SWPPP. w) The Contractor shall be required to conduct vehicle refueling in upland areas where fuel cannot enter WOUS or WOS and in areas that do not have potential to support sensitive habitat or federally and/or state listed species. Any fuel containers, repair materials including creosote-treated wood, and/or stockpiled material that is left onsite overnight shall be secured in						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
secondary containment within the work area and staging/assembly area, and covered with plastic at the end of each workday. x) In the event that no activity is to occur in the work area for the weekend and/or a period of time greater than 48 hours, the Contractor shall ensure that all portable fuel containers are securely locked and/or removed from the project site. y) Equipment and containers shall be inspected daily for leaks. Should a leak occur, contaminated soils and surfaces shall be cleaned up and disposed of following the guidelines identified in the SWPPP, Materials Safety Data Sheets, and any specifications required by other permits issued for the project. z) The Contractor shall utilize off-site maintenance and repair shops as much as possible for maintenance and repair of equipment. aa) If maintenance of equipment must occur onsite, fuel/oil pans, absorbent pads, or appropriate containment shall be used to capture spills/leaks within all areas. Where feasible, maintenance of equipment shall occur in upland						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
areas where fuel cannot enter WOUS or WOS and ESHAs.						
MM BR-2 Preconstruction Rare Plant Surveys. Protocol rare plant surveys shall be conducted to locate special status plant species onsite prior to the start of construction. Should a significant population (>3 individuals) of the target species (estuary seablite, Pacific saltbush, Coulter's goldfields, Nuttall's acmispon, beach goldenaster, aphanisma, beach goldenaster, and Lewis' evening primrose) be identified, the District (or project proponent) shall collect seed from those individuals present within the impact areas and broadcast 50-percent of the seed in the appropriate restoration areas following soil preparation as supervised by a qualified Lead Biologist (Lead Biologist Minimum Qualifications: Bachelor's degree in Biology [or equivalent, such as a degree in Natural Resources] and a minimum of 5 years of restoration experience or equivalent, such as restoration certification and at least 12 semester units of botany course work or 100 hours of independent study with CNPS or other local botanical society, or 5+ years of seed collection and propagation experience with the target genera). Seeding shall be considered successful if the target species is observed at least twice over a 5-year period. Fifty-percent of the collected seed shall be stored by a reputable seed bank. Should the seeded areas not meet the performance criteria defined above, the District shall identify an appropriate off-site	Identify Lead Biologist	District of project proponent	Prior to construction	Project Level and Program Level		
	Conduct preconstruction rare plant surveys	Biologist	Prior to construction			
	Collect and broadcast seeds from target species	Biologist and District or project proponent	If target species are identified onsite, then seed collection would occur prior to construction and seed broadcast would occur during planting phase of construction			
	Monitor seeding for success	Biologist and District or project proponent	If target species are identified onsite and seeds are broadcast onsite, then monitoring would occur at least twice a year for five years post construction			
	Identify appropriate off-site location and prepare a germination and habitat suitability study	Biologist and District or project proponent	If seeded areas do not meet performance criteria, then an off-site location would be identified and a germination and habitat suitability study prepared.			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
location to implement a germination and habitat suitability study. The study would review existing available literature and include methodology to test abiotic factors essential for growth of the target species, including, but not limited to, soil pH, permeability, slope, sun exposure, and rain fall frequency, duration, and distribution patterns. Metrics would include germination rates, survival rates, and productivity based upon seed or fruit set. Should salt marsh bird's beak, a federally and state endangered species, be observed during preconstruction surveys and subject to direct impacts, a CDFW Section 2081 Incidental Take Permit is required. Compensatory mitigation for net loss of suitable habitat at a minimum of 1:1 establishment, enhancement or preservation and long-term management shall be required.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
MM BR-3 Restoration of Temporary Impacts. To avoid or minimize the permanent loss or degradation of sensitive or special status habitat resulting from temporary project features, any areas that are temporarily disturbed shall be restored to preconstruction conditions and vegetated with appropriate native plant species once construction is complete. This includes potential impacts to seablite scrub, pickleweed mats, salt pan, and open water that are subject to regulation by CCC, ACOE, and RWQCB and may be subject to regulation by CDFW, as well as habitat with potential to support special status biological resources. To avoid or minimize any long-term impacts on habitat or vegetation, staging areas, access routes, and other temporarily disturbed areas shall be decompacted and recontoured to ensure proper site drainage and revegetated with appropriate native species at a 1:1 ratio. Any temporary equipment, structures, or utilities (e.g., water, power) installed at the project site shall be removed at the completion of construction. Any temporary disturbance lasting longer than 12 months shall be mitigated as detailed MM BR-10.	Identify sensitive habitat that would be temporarily impacted	Biologist	Prior to construction	Project Level and Program Level		
	Restore temporarily disturbed areas	District or project proponent	Immediately after construction			
MM BR-4 Preconstruction Surveys for Federally and State Listed Avian Species. Initial clearing, ground disturbance, and other construction activities shall occur outside of the nesting bird season (i.e. outside of February 1 – September 15) to the maximum extent	Perform a minimum of three focused surveys for target species	Biologist	Prior to construction during nesting bird season (February 1 – September 15)	Project Level and Program Level		
	Install 500-foot buffer around active nest and notify District	Biologist	During construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
feasible. Should construction activities need to occur during the nesting bird season, prior to initiation of construction, a District-approved biologist shall: a) Perform a minimum of three focused surveys, on separate days, to determine the presence of Ridgway's rail (light-footed), western snowy plover, coastal California gnatcatcher, California least tern, or Belding's savannah sparrow nest building activities, egg incubation activities, or brood rearing activities within 500 feet of project construction proposed during the nesting season that could impact these species. The surveys shall begin a maximum of 7 days prior to project construction and one survey shall be conducted the day immediately prior to the initiation of work. Additional surveys shall be done once a week during project construction in the nesting season. These additional surveys may be suspended once fledglings have left the nest or if noise at the edge of nesting habitat is less than 60 dBA Leq where the berm occurs between construction and nesting activities. b) If an active Ridgway's rail (light-footed), western snowy plover, coastal California gnatcatcher, California least	Perform preconstruction surveys for federally and state listed avian species	Biologist	Prior to construction outside of nesting bird season (September 16 – January 31)			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
tern or Belding's savannah sparrow nest is found within a minimum of 500 feet of project construction, the Biological Monitor shall report the nest(s) to the District. After initial identification of the nest, the biological monitor shall not approach within 25 feet of an active nest; nest monitoring shall occur with binoculars. Signage and SHA fencing shall be installed to deter people from entering any area with an active nest. Work within 500 feet of the active nest shall be halted. With USFWS (Ridgway's rail [light-footed], coastal California gnatcatcher, California least tern or western snowy plover) or CDFW (Belding's savannah sparrow) approval, the buffer may be reduced to less than 500 feet based on species sensitivity, topography, noise/duration of construction activities, etc., to protect active nests. The District shall develop an Avoidance and Minimization Plan, including determining whether the existing berm provides adequate protection for the nest to reduce or eliminate the buffer and measures to minimize construction noise at the nest site if not (such as, installation of noise barriers and/or modification in quantity, location or type of equipment), a monitoring plan, and an adaptive						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
management strategy and/or contingency options. c) Pre-construction surveys will also be conducted for federally and state listed species when suitable habitat is proposed for removal outside of the breeding season. Should federally and state listed avian species be detected, vegetation removal shall be postponed until the species has left the work area, unless the necessary Incidental Take Permits have been issued. In the latter case, clearing would progress in compliance with all required Conservations Measures and Terms and Conditions.						
MM BR-5 Preconstruction Surveys for Burrowing Owl. A preconstruction survey shall be conducted by a qualified biologist in accordance with the survey requirements detailed in the California Department of Fish and Game's March 7, 2012, Staff Report on Burrowing Owl no less than 14 days before initial ground-disturbing activities (California Department of Fish and Game 2012). Any active burrow found during preconstruction survey efforts shall be mapped and provided to the construction foreman. If no active burrows are found, no further mitigation shall be required. A construction avoidance buffer shall be placed around occupied burrows.	Conduct preconstruction surveys for burrowing owl	Biologist	Prior to construction	Project Level and Program Level		
	Install appropriate buffer	Biologist	During construction			
	Prepare Burrow Exclusion Plan	Biologist	If avoidance is not possible, then the biologist would prepare the Burrow Exclusion Plan prior to disturbance.			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Recommended buffer distances are based on time of year and level of disturbance: • April 1 – August 15: Low disturbance 656 feet, medium and high disturbance 1,640 feet • August 16 – October 15: Low and medium disturbance 656 feet, high disturbance 1,640 feet • October 16 – March 31: Low disturbance 164 feet, medium disturbance 328 feet, high disturbance 1,640 feet If avoidance of impacts on occupied burrows is not practicable, the District shall create a Burrow Exclusion Plan that would be approved by CDFW. The plan shall follow Appendix E of the 2012 CDFW Burrowing Owl Mitigation Staff Report. Relocation shall be implemented only during the nonbreeding season by a qualified biologist. Owls shall be excluded from burrows in the immediate impact zone by installing one-way doors in burrow entrances. One-way doors shall be left in place for 48 hours to ensure owls have left the burrow before excavation.						
MM BR-6 Implement Long-Term Operations Maintenance and Management Plan. A Long-Term Management Operations and Maintenance Plan shall be prepared and implemented. The plan shall address maintenance activities, associated minimization measures, monitoring requirements and adaptive management strategies to be	Prepare a Long-Term Management Operations and Maintenance Plan	District	Prior to completion of construction	Project Level		
	Implement Long-Term Management Operations and Maintenance Plan	District	Post construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
implemented after the site has met its 5th year performance criteria and been accepted by the agencies. The Long Term Operations and Maintenance Management Plan shall include measures to minimize the potential introduction of invasive species during maintenance activities including, but not limited to: washing all equipment prior to entering the site from another location, removing invasive species before seeding to the maximum extent feasible, collecting all plant material removed during maintenance securely, such as in a burlap bag, and removing from the site. The plan shall prohibit the use of pesticides or herbicides with potential toxicity to aquatic or terrestrial wildlife species. Maintenance and trash/debris removal shall be conducted outside of the bird nesting season (February 1 – September 15) to the maximum extent feasible. If maintenance must occur during the nesting season, a qualified biologist shall conduct preconstruction nesting bird surveys and direct maintenance staff to areas not occupied by nesting birds. The plan shall include contingency erosion control BMPs should they be needed following especially large storms. Should supplemental planting be required, all container stock shall be certified pest free and inspected for pests prior to being unloaded on site. At a minimum, the plan shall include biannual inspections for invasive species cover, fence inspection, vandalism, and illegal dumping. The plan shall include long-term performance criteria to include, at a minimum, no perennial invasive species						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
(ranked by California Invasive Plant Council as moderate to high) and less than 5 percent annual invasive species relative cover. An assessment of habitat function shall be conducted every 10 years. At a minimum, the assessment shall include a wildlife use assessment and an assessment of non-native vegetative cover. The Final Monitoring Report upon which all signatory agencies accept the mitigation site as complete shall serve as the baseline conditions for long-term monitoring. Contingency measures such as supplemental weeding, planting, grading, and erosion control shall be included in the plan. A threshold for implementing contingency measures, such as assessment results with no more than -10 percent deviation from baseline shall be included.						
MM BR-7 Implement Biological Resource Protection Measures During Operations for Parcels A, B, and C. To avoid or minimize potential operations impacts on biological resources resulting from development of Parcels A, B, and C, the following measures shall be implemented as applicable based on project-specific designs: a) Landscape plans shall not include the use of plant species considered invasive by California Invasive Plant Council. All plant species specified in the landscape plans shall be certified	Include biological resource protection measures in project design	Project proponent	Prior to construction	Program Level		
	Verify biological resource protection measures are included in the design and implemented	District	Prior to construction and post construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
free of pests, including plant pathogens. b) Light glare shields shall be included in the project design to reduce the extent of illumination into sensitive habitats. If lighting is located near surface waters, it shall be shielded such that it does not shine directly into the water. c) Masonry block walls or equivalent shall be erected around the perimeter of the project area to prevent domestic pets or other animals that could harm biological resources in adjacent habitats. d) The commercial development project proponent shall ensure operation noise levels are kept below 60 dBA Leq at the margin of the nearest occupied breeding habitat for state or federally listed species. e) The commercial development project proponent shall design the project such than no stormwater runoff shall enter adjacent native habitat areas. All stormwater runoff shall be channeled into storm drains.						
MM BR-8 Wildlife Surveys for Parcels A, B, and C. The District (or project proponent) shall conduct nesting season (February 1 – September 15) surveys on Parcel A for Belding's savannah sparrow, Ridgway's rail	Conduct nesting season surveys on Parcels A, B, and C	District or project proponent biologist	Prior to construction	Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
(light-footed), western snowy plover, California least tern, and burrowing owl; on Parcel B for Belding's savannah sparrow, Ridgway's rail light-footed, and burrowing owl; and on Parcel C for burrowing owl prior to project initiation. If no special status wildlife species are present, no further mitigation shall be required. Should occupied Belding's savannah sparrow, Ridgway's rail, western snowy plover, or California least tern habitat be proposed for permanent impact, the District shall provide compensatory mitigation as detailed in MM BR-10. See MM BR-5 for details regarding burrowing owl monitoring and mitigation.						
MM BR-9 Berm Breach Site – Pre- and Post-Construction Eelgrass Surveys. Eelgrass (*Zostera* spp.) surveys, consistent with the requirements outlined in the 2014 California Eelgrass Mitigation Policy, shall be conducted to detect any impacts on eelgrass as a result of breaching the berm to open the Bank Site to tidal influence. Surveys shall be conducted prior to breaching the berm. If the pre-construction survey shows no eelgrass is present, no post construction survey and no further surveys or mitigation shall be required. If eelgrass is present a post-construction survey shall be conducted within 30 days following completion of breach construction. If impacts on eelgrass from implementation of the proposed project are identified, mitigation for eelgrass impacts shall be at a ratio of no less than 1.2:1, as required by	Conduct preconstruction eelgrass survey	District biologist	Prior to construction	Project Level		
	Conduct postconstruction eelgrass surveys and mitigate if required	District biologist	Post construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
the California Eelgrass Mitigation Policy. Mitigation shall commence within 135 days of any noted impacts on eelgrass, such that mitigation commences within the same eelgrass growing season that impacts occur if feasible.						
MM BR-10 Compensatory Mitigation for Impacts on Special Status Biological Resources. a) Should the project result in a loss of WOUS, CCC wetland, or CDFW regulated streambed, the District shall provide compensatory mitigation for the loss of regulated waters or streambed at a minimum 1:1 ratio. Compensatory mitigation shall consist of establishment to ensure no loss of aquatic function. The compensatory mitigation ratios provided herein for direct impacts on regulated aquatic resources represent the minimum required to ensure no net loss of aquatic function following project implementation. Final compensatory mitigation programs will be determined in consultation with USACE, RWQCB, CCC and/or CDFW during their respective permitting processes. b) Should the project result in a loss of Menzie's goldenbush scrub, or suitable habitat for Belding's savannah sparrow, Ridgway's rail (light-footed), California gnatcatcher, western snowy plover or California least tern, the District shall provide establishment	Identify amount of WOUS, CCC wetland, CDFW-regulated streambed, or occupied state or federally listed species habitat and coordinate with appropriate agency to determine compensatory mitigation.	District or project proponent	Prior to construction	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
within the Bank Site at a minimum 1:1 mitigation ratio to ensure no net loss of Menzie's goldenbush scrub or habitat for these species. c) Should the Bank Site not provide sufficient habitat to provide a minimum 1:1 mitigation ratio for net loss of habitat for any of these species, the balance of the mitigation shall be provided through a combination of establishment, enhancement or preservation and long term management to provide for no net loss of habitat function. The compensatory mitigation ratios provided herein for loss of the above habitats represent the minimum required to ensure no net loss habitat following project completion. Final compensatory mitigation programs will be determined in consultation with USFWS and CDFW as applicable.						
Cultural Resources						
MM CR-1 Preparation of a Cultural Resource Mitigation and Management Plan. Prior to commencement of any ground-disturbing activities but no sooner than 90 percent design completion, the District shall contract a qualified archaeologist who is a member of the Register of Professional Archaeologists and meets the SOI's Professional Qualification Standards for Archaeology (36 CFR 61, Appendix A) to develop a CRMMP.	Prepare and implement a CRMMP	District	Prepare CRMMP prior to construction and implement during construction	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
The CRMMP shall serve to guide the identification, evaluation, and data recovery of all known and unknown archaeological historical resources in the project site. The overall performance goals of the three phases of archaeological activities to be outlined in the CRMMP are: *a)* ***Identification:*** Archaeological testing, guided by an explicit sampling strategy, shall be carried out to identify any intact buried archaeological deposits within the horizontal and vertical extents of project-related disturbance. *b)* ***Evaluation:*** Any intact buried archaeological deposits identified shall be evaluated according to specific thresholds of significance for their potential to yield scientifically consequential information. *c)* ***Data Recovery:*** Any deposits determined to contain scientifically consequential information shall be analyzed and documented following defined methods and objectives in order to recover and preserve the scientifically consequential information they contain. The CRMMP shall be consistent with the SOI's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716–44740), the California OHP's						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Archaeological Resource Management Reports: Recommended Contents and Format (1990), Guidelines for Archaeological Research Designs (1991), and Guidelines for the Curation of Archaeological Collections (1993), and the ACHP's Treatment of Archaeological Properties: A Handbook (1980). The CRMMP shall include, at a minimum, the following items: • ***Historic Context:*** Based on the relevant sections of the *Cultural Resource Technical Report*, the District's qualified archaeologist shall prepare a comprehensive historic context for the study area and the surrounding region. The historic context shall conform with guidance from the SOI's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44718-44719): ○ Identify the concept, time period, and geographical limits for the historic context ○ Assemble the existing information about the historic context ○ Synthesize information ○ Define property types ▪ Identify property types ▪ Characterize the locational patterns of property types ▪ Characterize the current condition of property types						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
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○ Identify information needs Specific research topics for the historic context should include attempts to identify further evidence related to the association of CA-SDI-19712 with the Kumeyaay village of La Punta and the Kumeyaay revolt of 1775, as well as a synthesis of comparative regional data from coastal habitation sites dating to the San Dieguito and La Jolla periods to aid in contextualizing the prehistoric occupation of CA-SDI-4360. • ***Research Design:*** The CRMMP shall include an explicit statement of theoretical and methodological approaches to be followed in the identification, evaluation, and data recovery of archaeological resources. Following the OHP's *Archaeological Resource Management Reports: Recommended Contents and Format* (1990), appropriate research designs shall: A. Discuss the theoretical basis of the proposed research; B. Summarize previous research; C. Present testable hypotheses or state the goals of the research; and D. Identify the test implications of the hypotheses. Pursuant to the SOI's Standards for Archaeological Documentation (48 FR 44734–44737), the research design shall draw upon the historic context to identify:						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
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○ Evaluated significance of the properties to be studied; ○ Research problems or other issues relevant to the significance of the property; ○ Prior research on the topic and property type; and how the proposed documentation objectives are related to previous research and existing knowledge; ○ The amount and kinds of information (data) required to address the documentation objectives and to make reliable statements including at what point information is redundant and documentation efforts have reached a point of diminishing returns; and ○ Methods to be used to find the information. Pursuant to the SOI's Standards, the research design shall explicitly identify the archaeological data classes that are required to address the specified documentation objectives. Consistent with the information needs identified in the historic context, the research design shall provide thresholds for determining the point at which further data recovery and documentation fail to improve the usefulness of the archeological information being recovered (48 FR 44735).						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
• ***Methods:*** The CRMMP shall include specific field and laboratory methodologies for the identification, evaluation, and data recovery of archaeological resources. Because all archaeological excavation is by nature destructive, field methods shall be developed once project design has reached 90 percent completion and shall be reviewed upon submittal of final design, in order to avoid unnecessary impacts on archaeological resources in areas that would not be affected by the project, per CEQA Guidelines Section 15162.4(b)(3). ○ *Identification and Evaluation:* The final grading and construction plans shall be reviewed to determine the precise horizontal and vertical extents of ground-disturbing activities. Based on this information, the District's qualified archaeologist shall develop an archaeological testing and evaluation plan with the stated objective of identifying any intact buried archaeological deposits within the project's limits of disturbance and determining their significance in accordance with the CRHR criteria (14 CCR 4852[b]). Per the SOI's Standards and Guidelines for Identification and Evaluation (48 FR 44720–44726), the testing plan should include methods appropriate for the environmental and cultural context						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
of the area under study, as well as expected results and reasons for those expectations. Identification and evaluation Methods for identification and evaluation shall include the following: ▪ Mapping and site gridding; ▪ Full-coverage site survey with point-plotting of surface artifacts; ▪ Placement of shovel test pits, auger units, test units, or mechanically excavated trenches, guided by an explicit sampling strategy, not to exceed the extents of proposed disturbance in any given location; ▪ Recording procedures for documenting the results of the excavations, including soil matrix descriptions, artifact types and classifications; ▪ Procedures for in-field recordation of artifacts and features based on type, including prescriptive standards for measurement, description, documentation of stratigraphic context, and photographic documentation; ▪ Specific methodologies and thresholds for determining the integrity of deposits and expected feature types (e.g.,						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
shell midden deposits, hearths, occupational deposits) and their potential to yield scientifically consequential data; ▪ Explicit methods for estimating the spatial extent of intact buried deposits identified based on the results of test excavations; and ▪ An artifact disposition policy, stating that only artifacts associated with features and deposits determined to be significant shall be collected for laboratory analysis. All other artifacts shall be recorded in the field and reburied in the unit where they were recovered. ○ *Data Recovery:* The CRMMP shall include a treatment plan for recovering and preserving scientifically consequential data from intact archaeological deposits identified during the testing and evaluation phase that are determined to be significant according to the criteria set forth in the research design. Following the guidelines provided in the ACHP's *Treatment of Archaeological Properties: A Handbook* (1980), the data recovery plan shall employ methods that shall ensure full, clear, and accurate descriptions of all field operations and observations. Excavation techniques, recording methods,						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
stratigraphic and associational relationships, environmental relationships, and analytical techniques shall be described, insofar as is feasible, in such a way as to allow future researchers to reconstruct what was done, what was observed, and why. To the extent feasible, the methods shall take into account the possibility that future researchers would need to use the recovered data to address problems not recognized at the time the data were recovered. Per the SOI's Standards and Guidelines for Archaeological Documentation (48 FR 44734–44737), the archaeological data recovery plan shall include an explicit statement of objectives and methods that responds to needs identified in the research design. The methods and techniques chosen for archeological documentation shall be the most effective, least destructive, most efficient, and economical means of obtaining the needed information. The data recovery plan shall include the following: • Explicit descriptive statements of and justification for field study techniques. • A discussion of expected feature types and associated techniques for excavation, recordation, and analysis.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
• Specific thresholds for determining the level of effort necessary to achieve successful data recovery, based on the estimated spatial extent of intact buried deposits identified in the previous phase. Thresholds shall be tailored to specific deposit and feature types. For instance, the recovery of consequential archaeological data from a small hearth may be considered successful upon excavation of half of the feature by volume. Larger and more complex deposits and features may require an explicit sampling strategy. In all cases, recovery thresholds shall be formulated based on the data needs identified in the research design and adequate justification shall be provided. • Recording procedures for documenting the results of the excavations, including soil matrix descriptions, artifact types and classifications. • Procedures for in-field recordation of artifacts and features based on type, including prescriptive standards for measurement, description, documentation of stratigraphic context, and photographic documentation. • Procedures for recovering samples of soil matrix for specialized analysis (e.g., pollen analysis, phytolith analysis, and flotation for macro-botanical remains and fish scales and otoliths), samples of organic materials for radiocarbon dating,						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
as well as other elemental or chemical analyses. • Laboratory procedures for the initial processing and subsequent analysis of recovered materials, based on the objectives identified in the research design. • An artifact disposition policy, providing criteria and procedures for determining the disposition of artifacts once laboratory analysis is concluded. Artifact curation and discard principles shall be organized under three considerations: research values, practicality, and education potential. Artifacts that meet the discard criteria (e.g., lack of long-term research value, poor archaeological context, poor condition, lack of education potential) shall be reburied at a specified location in the project site. All archaeological units for identification, evaluation, and data recovery shall be excavated in 10-centimeter levels. Sediments removed shall be dry-sifted through 1/8-inch mesh screens. Screening shall be conducted over plastic sheeting (tarps) to reduce environmental damage, prevent contamination of the site's surface deposit, and expedite the backfilling process. Testing data, which includes depth, soil descriptions, soil type and consistency, stratigraphy, and artifact type and material, shall be recorded on standardized forms. Unit form templates shall be included in the CRMMP.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Unit locations, features, surface finds, and other spatial data shall be controlled with reference to the Universal Transverse Mercator grid superimposed on aerial photographs rendered by a geographical information system. Data points to be mapped shall be collected with a GPS unit with submeter accuracy. Artifacts from each field excavation provenience shall be measured, photographed, and recorded on the standardized unit forms. If paleontological resources are encountered, they shall be noted and mapped, but shall not be part of the analysis unless it is clear they are associated with a cultural context. All artifacts from surface collections and excavations shall be collected, with the exception of fire-affected rock, which shall be counted, weighed, and reburied in the excavation unit. All collected artifacts shall be analyzed using the lab methods outlined in the CRMMP. Native American cultural materials shall be classified into one of 12 categories: core, debitage, flaked-stone tool, cobble/percussion tool, ground stone, ceramic, modified bone, modified shell, and miscellaneous items. Recovered ecofacts (unmodified bone and shell specimens) shall be cataloged by faunal class. Historical items shall be identified as specifically as possible, and study beyond simple identification would not be undertaken unless particular items appear to date to the ethnohistoric or Early Historic period.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
• ***Archaeological Reporting:*** The CRMMP shall set forth the requirements for reporting. All reports shall be prepared in accordance with the guidelines established by the Secretary of the Interior's Standards for Archaeological Documentation (48 FR 44734–44737) and the OHP's *Archaeological Resource Management Reports: Recommended Contents and Format* (1990) and shall be submitted to the District and the SCIC. ○ *Testing, Evaluation, and Data Recovery Reports:* Upon completion of each phase of archaeological testing evaluation, and data recovery, the District's qualified archaeologist shall document the results in a report. These documents shall summarize the testing and evaluation efforts and data recovery results by each area or feature that undergoes data recovery. ○ *Archaeological Monitoring Report:* Upon completion of grading and excavation activities, the District's qualified archaeologist shall prepare a written report detailing monitoring activities performed at archaeological sites CA-SDI-4360 and CA-SDI-19712 and at any other previously undiscovered archaeological site, including the methodology and results of offsite screening of sediment, in the event it is necessary. The report shall						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
include the results of the fieldwork and all appropriate laboratory and analytical studies that were performed in conjunction with excavations. • ***Curation of Archaeological Collections:*** Archaeological collections comprise several components, including artifacts, environmental and dating samples, field documentation, laboratory documentation, photographic records, related historical documents, and reports. The District's qualified archaeologist shall prepare a plan for curating all artifacts, notes, photographs, and materials recovered during identification, evaluation, data recovery, and monitoring. Artifacts to be curated shall include all those that were not discarded pursuant to the artifact disposition policy. The curation plan shall be consistent with the OHP's *Guidelines for the Curation of Archaeological Collections* (1993). Curation of artifacts and materials recovered from archaeological investigations requires a formal agreement between the District and a certified curation facility, which shall be initiated prior to undertaking archaeological fieldwork. All materials that are to be curated shall be placed in archival quality, long-term storage packing materials, including acid-free, lignin-free boxes and inert polyethylene bags. The District shall also curate records prepared or assembled in						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
connection with the project, including field notes, drawings, photographs, maps, special studies, and final reports. After completion of laboratory analyses and the production of the final reports, the collection shall be transported to the designated curation facility where it shall be available for study by researchers. • ***Personnel and Qualifications:*** The CRMMP shall include a discussion of roles and required qualifications for personnel conducting archaeological testing, evaluation, data recovery, and monitoring. All qualifications shall be verified by the District prior to conducting work for the project. All procedures required by this mitigation measure shall be carried out by, or under the direct supervision of, persons who meet, at a minimum, the SOI's Professional Qualifications Standards for Archaeology (48 FR 44739) and are members of the Register of Professional Archaeologists. The CRMMP shall outline the requirements and responsibilities for each role, including identifying which personnel shall have the authority to issue stop-work orders during construction and who is responsible for initiating notification procedures in the event of an unanticipated discovery. • ***Measures for Protecting Cultural Resources*:** The CRMMP shall include the following measures designed to minimize harm to portions of archaeological sites both within and						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
outside the project's limits of disturbance during construction: ○ *WEAP Training:* The District's qualified archaeologist shall prepare a cultural resource-focused WEAP training that shall be given to all ground-disturbing construction personnel to minimize harm to known and unknown archaeological resources. Topics to be included for WEAP training shall be identified in the CRMMP. All site workers shall be required to complete the WEAP training with a focus on cultural resources, including education on the consequences of unauthorized collection of artifacts and a review of discovery protocol. The WEAP training shall also explain the requirements of mitigation measures to be implemented during ground-disturbing activities. ○ *Delineation of Work Limits*: Prior to construction, the project work limits in the vicinity of previously recorded resources CA-SDI-4360 and CA-SDI-19712 shall be delineated with environmentally sensitive area fencing in order to protect these areas from unnecessary impacts. ○ *Archaeological Monitoring:* The District shall retain archaeological monitors to observe all project-related ground-disturbing activities.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
The CRMMP shall specify monitoring locations and protocols based on proposed construction activities and the results of archaeological identification, evaluation, and data recovery. In areas where archaeological deposits were not identified or were determined to be disturbed, a single monitor shall be able to observe two or more construction locations or activities within a reasonable walking distance of each other. In areas where intact archaeological deposits were identified, even if they were subject to data recovery, one monitor per location or activity shall be required. The monitors shall be supervised by a qualified archaeologist who meets the SOI's Professional Qualification Standards for Archaeology (48 FR 44739) and has regional experience in prehistoric archaeology. The CRMMP shall rely on OSHA–qualified determinations in regard to the safety of monitoring locations. The CRMMP shall include a plan for sampling and offsite visual observation and screening of sediment removed during excavation in the event that onsite monitoring of excavations is						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
unfeasible due to safety considerations. Based on the research design, an appropriate sampling strategy shall be laid out, specifying the relative proportion of sediment to be sampled, protocols for coordinating with construction crews, location where spoils shall be deposited, and procedures for observation, screening, and documentation. In determining sampling protocols, the plan shall consider the archaeological sensitivity of the location from which the sediment has been removed. In areas where archaeological deposits were not identified or were determined to be disturbed, visual observation of a small sample of the spoils (less than 5 percent) shall be required. In areas where intact archaeological deposits were identified, even if they were subject to data recovery, visual observation of a larger sample of the spoils (approximately 20 percent) and screening of a subset of this sample (approximately 5 percent) shall be required. ○ *Unanticipated Discovery Protocol*: As required by Section 15064.5(f) of the CEQA Guidelines, the CRMMP shall include provisions for historical or unique archaeological resources accidentally discovered during						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
construction. If cultural materials are discovered during construction, all ground disturbance within a 100-foot-wide buffer of the immediate discovery area shall temporarily cease until the District's qualified archaeologist can assess the nature and significance of the find. If the feature or deposit appears to be intact, it shall be evaluated according to the procedures detailed in the archaeological testing and evaluation plan and the District shall be immediately notified. If the feature or deposit is determined to be significant, the procedures outlined in the data recovery plan shall be implemented. • ***Native American Cultural Patrimony:*** In the event of the discovery, during any stage of archaeological research or construction, of objects or features with cultural value to descendant communities, including Native American burial remains, associated and unassociated funerary objects, sacred objects, and other cultural patrimony, all ground-disturbing activities in the vicinity of the discovery shall cease immediately. In case isolated objects are encountered in disturbed stratigraphic contexts, the Native American monitor shall be consulted to ensure appropriate treatment or disposition of the objects (per MM CR-4). In case intact deposits are encountered that may reasonably indicate the presence of burial features or						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
human remains, a 100-foot-wide buffer shall be established around the find to secure it from further disturbance and all applicable protocols shall be followed in accordance with MM CR-3.						
MM CR-2 Documentation of Pond 20 to Historic American Landscape Survey Standards and Development of Educational Display. Prior to commencement of any ground-disturbing activities within the Wetland Mitigation Bank Parcel, the District shall supplement the existing HALS documentation of the WSC Salt Works District (USFWS 2001) with additional research, field recordation, and photographic documentation of Pond 20A to HALS standards. Further documentation of Pond 20A shall include: (1) large-format photographic recordation of views of the setting and character-defining features of the portion of Pond 20A within the project site, including levees, channels, secondary berms delimiting individual ponds, and wooden post-and-plank features; (2) preparation of a detailed plan of the historical features of Pond 20A based on field recordation; (3) a detailed historical narrative report; and (4) compilation of historical research, photographs, and maps. The documentation shall be completed by a qualified historian or architectural historian who meets the Secretary of the Interior's Professional Qualification Standards for History or Architectural History. The archival documentation shall be donated to a suitable repository, such as the San Diego	Collect further documentation of Pond 20 for supplement to existing HALS documentation	District	Prior to construction	Project Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
History Center, and copies shall be provided to local historical organizations, such as the South Bay Historical Society. Because creation of the Wetland Mitigation Bank Parcel would alter or destroy some of the existing features of Pond 20A that are representative of past salt works activities (while retaining others, such as the surrounding berm), the District shall design, fabricate, and install an educational display based on archival documentation. The educational display shall include two interpretive panels with historical photographs, maps, and narrative text demonstrating the history of the salt pond and its past use, to be placed in public view at suitable locations at the southern (along Palm Avenue) and western (adjacent to the 13th Street parking lot) boundaries of the project site. The panels shall include information directing viewers to a website, to be designed, prepared, and maintained by the District, providing further historical narratives, photographs, and maps based on archival documentation.						
MM CR-3 Inadvertent Discovery of Human Remains. If any previously unrecorded human remains are inadvertently discovered during archaeological investigations or construction, all ground-disturbing activities in the vicinity of the discovery shall cease immediately and a 100-foot-wide buffer shall be established around it to secure it from further disturbance. California State law (Health and Safety Code Section 7050.5; PRC Sections 5097.94, 5097.98	Implement procedures if human remains discovered	District and contractor	During construction	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
and 5097.99) shall be followed. This law specifies that work shall stop immediately in any areas where human remains or suspected human remains are encountered. The District and the county coroner shall be immediately notified of the discovery. The coroner has 2 working days to examine the remains after being notified by the lead agency. If the remains are determined to be Native American, the coroner has 24 hours to notify NAHC, who shall determine the most likely descendant. The NAHC shall immediately notify the identified most likely descendant, and the most likely descendant has 48 hours to make recommendations to the landowner or representative for the respectful treatment or disposition of the remains and grave goods. If the most likely descendant does not make recommendations within 48 hours, the area of the property shall be secured from further disturbance. If no recommendation is given, the District or its authorized representative shall re-inter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.						
Geology and Soils						
MM GEO-1 Paleontological Monitoring in Areas of Sensitivity. To reduce potential impacts on paleontological resources, all proposed grading and excavating to depths greater than 10 feet shall be monitored by a qualified paleontologist(s), approved by the District's Planning Department, paid for by	Retain a qualified Paleontologist and conduct monitoring	District and project proponent	If grading or excavations would occur at depths greater than 10 feet, then a qualified paleontologist shall be retained prior to	Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
the project proponent. Specifically, the project proponent and/or its construction supervisor shall ensure the following measures are implemented. • A qualified Paleontologist shall attend the preconstruction meeting to consult with the grading and excavation contractors concerning excavation schedules, paleontological field techniques, and safety issues. A qualified Paleontologist is defined as an individual with a M.S. or Ph.D. in paleontology or geology who is familiar with paleontological procedures and techniques, who is knowledgeable in the geology and paleontology of San Diego County, and who has worked as a paleontological mitigation project supervisor in the County for at least 1 year. • A paleontological monitor shall be on site on a full-time basis during excavation and pile driving activities that occur 10 feet or more bgs, to inspect exposures for contained fossils. The paleontological monitor shall work under the direction of the qualified Paleontologist. A paleontological monitor is defined as an individual selected by the qualified Paleontologist who has experience in the collection and salvage of fossil materials. • If fossils are discovered, the Paleontologist shall recover them and temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner.			construction and monitor during construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
• Fossil remains collected during the monitoring and salvage portion of the mitigation program shall be cleaned, repaired, sorted, and catalogued. • Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall be deposited (as a donation) in a scientific institution with permanent paleontological collections, such as the San Diego Natural History Museum. Donation of the fossils shall be accompanied by financial support for initial specimen storage, paid for by the project proponent. Within 30 days after the completion of an excavation and pile-driving activities, a final data recovery report shall be completed by the qualified Paleontologist that outlines the results of the mitigation program. This report shall include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils.						
Greenhouse Gas Emissions						
MM GHG-1 Greenhouse Gas Emission Reducing Design. Prior to approval, future commercial developments shall list all GHG emission-reducing measures and demonstrate where these measures would be located in the plans. A report demonstrating compliance shall be submitted to the District's Planning Department. The following is a list of proposed sustainability measures from the District	Incorporate GHG emission reducing measures into the design.	Project proponent	Prior to construction	Program Level		
	Verify GHG reducing measures have been incorporated into the building plans.	District				

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date

CAP that shall be required and incorporated into the CDP for the project.
• General measures:
  ○ No commercial drive-through shall be implemented.
• Water:
  ○ Indoor water consumption shall be reduced by 20 percent lower than baseline buildings (defined by Leadership in Energy and Environmental Design as indoor water use after meeting Energy Policy Act of 1992 fixture performance requirements) through use of low-flow fixtures in all administrative and common area bathrooms.
  ○ Low-water plantings and drip irrigation shall be installed, and domestic water demand from the city system for landscaping purposes shall be minimized.
• Waste:
  ○ Compliance with AB 939 shall be mandatory and include recycling at least 50 percent of solid waste; recycling of demolition debris shall be mandatory and include recycling at least 65 percent of all construction and demolition debris.
  ○ All commercial, restaurant, and retail uses shall implement recycling, composting of food						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
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waste and other organics, and the use of reusable products instead of disposable products to divert solid waste from the landfill stream. ○ Recycled, regional, and rapidly renewable materials shall be used where appropriate during project construction. • Energy: ○ Energy efficiency design features shall be incorporated that exceed the most recent Title 24 California Building Energy Efficiency Standards. Measures that may be implemented include: ▪ Only fluorescent, light-emitting diodes, compact fluorescent lights, or the most energy-efficient lighting that meets required lighting standards and is commercially available shall be used. ▪ Occupancy sensors for all vending machines shall be installed in new buildings at the project site. ▪ On-site renewable energy to new buildings shall be implemented, unless the system cannot be built due to structural and operational constraints; evidence must be provided if not feasible, subject to District concurrence.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
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▪ Cogeneration systems (i.e., combined heat and power systems) shall be installed in new buildings constructed at the project site. ▪ High-performance glazing with a low solar heat gain coefficient value that reduces the amount of solar heat allowed into the building shall be installed, without compromising natural illumination. ▪ Increased insulation shall be installed. ▪ Cool roofs with an R value of 30 or better shall be installed. ▪ Sun-shading devices shall be installed, as appropriate. ▪ High-efficiency heating, ventilating, and air conditioning systems and controls shall be installed. ▪ Programmable thermostats shall be installed. ▪ Variable frequency drives shall be installed. ▪ Energy Star-rated appliances shall be installed. • Mobile sources:						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
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○ A minimum 6 percent of parking spaces shall be electric vehicle-ready. ○ A TDM plan for each project component that requires mandatory employer commuting measures, such as carpooling, transit subsidies, and vanpools, shall be implemented to reduce worker trips and parking demand. ○ Bicycle parking shall be included in project design. The number of spaces shall be, at a minimum, 5 percent of new automobile parking spaces. • Carbon sequestration and land use: ○ Trees and shrub planters shall be installed throughout the project area as part of the landscape plan.						
MM GHG-2 Electric Heating and Zero Net Energy Building. The District shall require all development to meet the state's Zero Net Energy standards, if the standards are adopted prior to commencement of construction.	Incorporate electric heating and Zero Net Energy standards into the design.	Project proponent	Prior to construction	Program Level		
	Verify electric heating and Zero Net Energy standards have been incorporated into the building plans.	District				
Hazards and Hazardous Materials						
MM HAZ-1 Prepare and Implement a Soil Management Plan. Prior to construction, the project proponent shall retain a licensed	Prepare and implement Soil Management Plan	District, project proponent, and contractor	Prior to construction prepare Soil Management Plan	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Professional Geologist, Professional Engineering Geologist, or Professional Engineer with experience in contaminated site restoration to prepare and submit a Soil Management Plan to the District for review and approval. After the District's review and approval, the project proponent shall implement the Soil Management Plan. The plan shall include general provisions for how soils shall be managed within the project site. The plan shall ensure that soil requiring additional testing is identified and any soils that contain contaminants over the screening thresholds are properly managed. The plan shall address CCR Title 22 and Section 13260(a) of the California Water Code. The Soil Management Plan shall include the following: • A *Site Contamination Characterization Report* (Characterization Report) delineating the vertical and lateral extent and concentration of residual contamination from the site's past uses. The Characterization Report shall include a compilation of data based on historical records review and from prior reports and investigations and, where data gaps are found, include new soil sampling to characterize the existing vertical and lateral extent and concentration of residual contamination. The project applicant shall coordinate with the County of San Diego Department of Health if the Characterization Report identifies contamination. • A *Soil Testing and Profiling Plan* (Testing and Profiling Plan) for those materials that			and implement during construction			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
would be reused onsite, reused offsite, or disposed of during construction. Testing shall occur for all potential contaminants of concern, which shall include CCR Title 22 metals, VOCs, and TPH at a minimum, and may also include polyaromatic hydrocarbon, pesticides, polychlorinated biphenyls, or any other suspected potential contaminants. For onsite soil reuse, the Testing and Profiling Plan shall document testing results compared to the ERL thresholds for adverse biological effects (Long et al. 1995). For off-site soil reuse, the Testing and Profiling Plan shall document compliance with applicable screening criteria, which may include U.S. EPA Region 9 RSLs for composite worker soil, DTSC Modified screening levels for commercial and industrial soils, and Tier 1 SSLs contained in RWQCB San Diego Region Order No R9-2014-0041, Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (Waiver 10, Section B(4)). However, offsite reuse screening criteria may be site specific. For offsite disposal, the Testing and Profiling Plan shall document compliance with CCR Title 22 for proper identification and segregation of hazardous and solid waste as needed for acceptance at a CCR Title 22–compliant offsite disposal facility. All excavation activities shall be actively monitored by a licensed Professional Geologist, Professional Engineering Geologist, or Professional Engineer for the potential presence of						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
contaminated soils and for compliance with the Testing and Profiling Plan. • A *Soil Disposal Plan* (Disposal Plan), which shall describe the process for excavation, stockpiling, dewatering, treating, and loading and hauling of soil from the site. This plan shall be prepared in accordance with the Testing and Profiling Plan (i.e., in accordance with CCR Title 22 and U.S. DOT Title 40 CFR Part 263), Section 13260(a) of the California Water Code, and current industry best practices for the prevention of cross contamination, spills, or releases. Measures shall include, but not be limited to, segregation into separate piles for waste profile analysis based on organic vapor, and visual and odor monitoring. Alternatively, soil shall be fully characterized *in situ*, prior to excavation, and may be loaded directly for transport and reuse or disposal in lieu of stockpiling. General soil management controls to be implemented by the contractor and the following topics shall be addressed within the Soil Management Plan: • Dust control • Management of soil stockpiles • Stormwater erosion control using BMPs, as specified in a SWPPP						
MM HAZ-2 Prepare and Implement a Site Worker Health and Safety Plan. Prior to construction the project proponent shall	Prepare and implement Site	District, project proponent, and contractor	Prior to construction prepare Site Worker Health and Safety	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
prepare and submit a Site Worker Health and Safety Plan (Safety Plan) to the District for review and approval. The Safety Plan shall ensure compliance with 29 CFR Part 120, Hazardous Waste Operations and Emergency Response regulations for site workers at uncontrolled hazardous waste sites. The Safety Plan shall ensure that site workers potentially exposed to site contamination in soil and groundwater are trained, equipped, and monitored during site activity. The training, equipment, and monitoring activities shall ensure that workers are not exposed to contaminants above personnel exposure limits established by Table Z, 29 CFR Part 1910.1000. The Safety Plan shall be signed by and implemented under the oversight of a California State Certified Industrial Hygienist.	Worker Health and Safety Plan		Plan and implement during construction			
Hydrology and Water Quality						
MM HY-1 Bridge and Channel Scour Monitoring and Maintenance. A Bridge and Channel Scour Monitoring and Maintenance Program shall be developed and implemented by the District. The program shall outline a survey plan to be carried out for a minimum of 10 years. The survey plan shall: • Identify protocols for collecting baseline data prior to commencement of construction; • Identify a minimum of 5 cross sections to be surveyed for scour and the area to be surveyed for sensitive habitats;	Prepare a Bridge and Channel Scour Monitoring and Maintenance Program	District	Prior to completion of the project	Project Level		
	Conduct monitoring	District in coordination with USFWS	For a minimum of 10 years after construction is complete			
	Implement adaptive strategies	District in coordination with USFWS	When identified			

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
• Require annual monitoring for at least 10 years; • Identify ideal conditions for monitoring (i.e., season, tide level); • Identify monitoring protocols (i.e., qualified biologist); and • Require a professional engineer and qualified biologist to review the results of the surveys. Based on the results of the survey, a professional engineer shall compare the results of the annual surveys to baseline conditions to determine the amount of scour at each cross section. The professional engineer shall identify adaptive management strategies, if necessary, to ensure the existing structures do not fail, including the Bayshore Bikeway Bridge and salt pond berms. During the 10th year of monitoring, the professional engineer shall determine if additional annual monitoring is needed. Additional annual monitoring shall be assessed on an annual basis following the completion of 10 years of monitoring. The qualified biologist shall compare the results of the annual surveys to baseline conditions to determine impacts on sensitive habitats. If impacts on sensitive habitat are documented, then compensatory mitigation per MM BR-10 shall be determined in consultation with applicable agencies.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
The cross sections included in the program shall include the channel in the area of the Bayshore Bikeway Bridge and the narrow channel cross section of the Otay River immediately downstream of the bridge near Pond 22 identified in Environmental Science Associate's 2020 Hydrodynamic Modeling Report (Appendix K to this EIR). The sensitive habitat survey area shall include the area from the berm breach site to the marsh bank at the narrow channel cross section of the Otay River. As part of the baseline data collected, the program shall require probing the sediment in the channel in the vicinity of the Bayshore Bikeway Bridge. The conservatively high estimate in Environmental Science Associates' 2020 Hydrodynamic Modeling Report (Appendix K to this EIR) identified the potential for widening of the channel to occur if downcutting is limited at this location. If hardened areas in the sediment are identified at this location, the professional engineer shall identify adaptive management strategies. Baseline data should also include vegetation mapping from the berm breach site to the marsh bank at the narrow channel cross section of the Otay River. The program shall identify adaptive management strategies that are appropriate for the location, which would not impact tidal influence at the mitigation bank, and are approved by the professional engineer.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Potential adaptive management strategies include: • Removal of hardened sediment near the Bayshore Bikeway Bridge; • Excavation of sediment; • Re-grading of the channel; and • Armoring of the channel. If re-grading or armoring is required, the program shall include measures to ensure consistency with post-construction erosion control plans.						
Noise						
MM NOI-1 Employ Noise Reducing Measures During Construction. Construction of the future commercial development on Parcels A, B, and/or C shall be required to comply with the following measures: a) Construction activity is prohibited between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day, or on legal holidays as specified in Section 21.04 of the San Diego Municipal Code, with exception of Columbus Day and Washington's Birthday, or on Sundays, that would create disturbing, excessive, or offensive noise unless a permit has been applied for and granted beforehand by the Noise Abatement and Control Administrator, in	• Limit construction activities to the hours permitted by the San Diego Municipal Code • Equip engines with appropriate mufflers • Prepare a noise construction plan • Install noise barriers where required	Contractor	Prepare noise construction plan prior to construction and implement remaining measures during construction	Program Level		
	Verify contractor works during permitted hours, installs appropriate mufflers, prepares a noise construction plan, and installs noise barriers when required	District				

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
conformance with San Diego Municipal Code Section 59.5.0404. No noise variance permit would be sought and construction would adhere to the times identified above. b) The contractor shall equip all internal combustion engines with the manufacturer-recommended muffler and shall not operate any internal combustion engine on the job site without the appropriate muffler. c) The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. d) When construction activities are projected to exceed 75 dBA L_{eq} during the 12–hour period from 7:00 a.m. to 7:00 p.m., equipment generating the noise shall be acoustically shielded with temporary noise barriers or pile driving shielding. The need for and feasibility of temporary noise barriers would be evaluated on a case-by-case basis by considering the distance to						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
noise-sensitive receptors, available space at the construction location, safety, and proposed project operations.						
Transportation						
MM TRAN-1 Implement Transportation Demand Management Measures. To reduce VMT by operation of future commercial development, the following TDM reduction measures from the SANDAG Mobility Management VMT Reduction Calculator Tool shall be implemented. • *1B Mandatory Employer Commute Program.* The District shall mandate future project applicants to implement a commute program as part of their lease. Employer offers a mandatory employer commute trip reduction program. The program may include a carpool or vanpool program, subsidized or discounted transit passes, bike amenities, encouragement for telecommuting and alternative work schedules, commute trip reduction marketing, and preferential parking permit program. ○ *1C Employer Carpool Program.* Employers can encourage carpooling by providing ridematching assistance to employees; providing priority parking for carshare vehicles; and providing incentives for carpooling. The District shall mandate future project applicants to implement a	Implement TDM reduction measures Verify TDM reduction measures have been implemented	Project proponent District		Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
commute program as part of their lease. ○ *1D Employer Transit Pass Subsidy.* Employers can encourage employees to take transit by subsidized or discounted daily or monthly public transit passes to employees. ○ *1E Employer Vanpool Program.* Vanpooling is a flexible form of public transportation that provides groups of 5–15 people with a cost-effective and convenient rideshare option for commuting. An employer can encourage ridesharing by subsidizing vanpooling for employees that have a similar origin and destination and by providing priority parking for employees that vanpool. The SANDAG Vanpool Program provides a subsidy of up to $400 per month to offset the vehicle lease cost. • *4C Bike Facility Improvement.* A bikeway network includes an interconnected system of bike lanes, bike paths, and cycle tracks (Class I, Class II, and Class IV facilities). Bike facilities may share the roadway with vehicles or provide a dedicated pathway that separates bikes from cars or pedestrians. Increasing the network of bike facilities help to encourage biking as a safe and convenient alternative to driving.						

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date
Tribal Cultural Resources						
MM TCR-1 Native American Monitoring. The District shall retain a qualified Native American cultural resource monitor to be present during all archaeological investigations, grading, and subsurface disturbance within the project site. In the event that on-site monitoring of excavations is determined unfeasible due to safety or logistical concerns, the Native American monitor shall be present during off-site visual observation or screening of sediment, as detailed in MM CR-1. The Native American monitor shall work in coordination with the archeological monitor and the District's qualified archaeologist, who shall notify them in advance of the schedule and locations for cultural resource monitoring activities. If more than one location is under construction at a given time, and if both locations cannot effectively be monitored by one individual, more than one Native American monitor may be required. Because the Native American monitor is invited to participate, work shall be allowed to continue without their presence. The Native American monitor shall not have the authority to temporarily halt equipment or issue a stop-work order. The Native American monitor shall report any concerns and input to the archaeological monitor or the District's qualified archaeologist, who shall be responsible for taking the appropriate action in response.	Retain a qualified Native American monitor	District or project proponent	During construction	Project Level and Program Level		

Table 1. Mitigation Monitoring and Reporting Program

Mitigation Measures	Action Required	Responsible Party	Timing for Mitigation Measure	Implementation Phase	Compliance Verification	
					Initial	Date

Notes:

AB=Assembly Bill; ACHP=Advisory Council on Historic Preservation; ACOE=United Sates Army Corps of Engineers; bgs=below ground surface; BMP=best management practices; CAP=Climate Action Plan; CCC=California Coastal Commission; CCR=California Code of Regulations; CDFG=California Department of Fish and Game; CDFW=California Department of Fish and Wildlife; CDP=Coastal Development Permit; CEQA=California Environmental Quality Act; CFR=Code of Federal Regulations; CNPS=California Native Plant Society; CRHR=California Register of Historical Resources; CRMMP=Cultural Resource Mitigation and Management Plan; dBA=A-weighted decibel; DOT=Department of Transportation; DTSC=Department of Toxic Substances Control; EIR=environmental impact report; EPA=Environmental Protection Agency; ERL=effects range low; ESHA=environmentally sensitive habitat areas; FR=*Federal Register*; GHG=greenhouse gas; GPS=global positioning system; HALS=Historic American Landscapes Survey; L_{eq}=equivalent sound level; NAHC=Native American Heritage Commission; NMFS=National Marine Fisheries Service; MM=mitigation measures; OHP=Office of Historic Preservation; ORERP=Otay River Estuary Restoration Project; OSHA=Occupational Safety and Health Administration; PRC=Public Resources Code; RSL=Regional Screening Levels; RWQCB=Regional Water Quality Control Board; SANDAG=San Diego Association of Governments; SCIC=South Coast Information Center; SHA=sensitive habitat area; SOI=Secretary of Interior; SSL=Soil Screening Levels SWPPP=Storm Water Pollution Prevention Plan; TDM=transportation demand management; TPH=total petroleum hydrocarbons; USFWS=United States Fish and Wildlife; U.S.=United States; VMT=vehicle miles traveled; VOC=volatile organic compounds; WEAP=Worker Environmental Awareness Program; WOS=Waters of the State; WOUS=Waters of the United States; WSC=Western Salt Company

Attachment B

Findings of Fact and Statement of Overriding Considerations

Wetland Mitigation Bank at Pond 20 and Port Master Plan Amendment

San Diego, California

April 2021

State Clearinghouse Number 2019060167

Prepared for:

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Acronyms and Abbreviations

ACOE	Army Corps of Engineers
Bank Site	Wetland Mitigation Bank at Pond 20
BEI	bank enabling instrument
BMP	best management practice
Board	Board of Port Commissioners
CCC	California Coastal Commission
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CO2e	carbon dioxide equivalent
CRMMP	Cultural Resource Mitigation and Monitoring Plan
dBA	A-weighted decibels
District	San Diego Unified Port District
EDF	Economic Development Fund
EIR	environmental impact report
EIS	environmental impact statement
FR	Federal Register
GHG	greenhouse gas
L_{eq}	equivalent sound level
MM	mitigation measure
MMRP	mitigation monitoring and reporting program
MT	metric ton
NEPA	National Environmental Policy Act
NOP	Notice of Preparation
NWR	National Wildlife Refuge
ORERP	Otay River Estuary Restoration Project
PMP	Port Master Plan
PMPA	Port Master Plan Amendment
project	Wetland Mitigation Bank at Pond 20 and Port Master Plan Amendment Project
RWQCB	Regional Water Quality Control Board
SHA	sensitive habitat area
SOI	Secretary of Interior
U.S.	United States
USFWS	United States Fish and Wildlife Service
WEAP	Worker Environmental Awareness Program
WOUS	waters of the United States
VMT	vehicle miles traveled

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1 Introduction

The Board of Port Commissioners (Board) of the San Diego Unified Port District (District) hereby makes the following Findings of Fact and Statement of Overriding Considerations concerning the Final Environmental Impact Report (EIR) (UPD Number EIR-2019-010 and State Clearinghouse Number 2019060167) for the Wetland Mitigation Bank at Pond 20 and Port Master Plan Amendment Project (proposed project or project), pursuant to the California Environmental Quality Act (CEQA) (California Public Resources Code Section 21000, et seq.), and its implementing regulations, the CEQA Guidelines (California Code of Regulations [CCR], Title 14 Section 15000, et seq.).

The Final EIR prepared for the proposed project consists of the revised Draft EIR, comments received on the Draft EIR, and the District's responses to those comments.

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2 Project Description

2.1 Project Location

The project site consists of approximately 95 acres of District-owned land and a small portion which is federally managed land, located in the City of San Diego, east of the City of Imperial Beach and south of the confluences of Nestor Creek, Otay River, and San Diego Bay. The project site is located within the Imperial Beach United States [U.S.] Geological Survey 7.5-minute quadrangle and is entirely within the Coastal Zone.

There is no official address for the project site; however, it is located immediately north of Palm Avenue (State Route 75), south of the San Diego Bay National Wildlife Refuge (NWR) South San Diego Bay Unit managed by U.S. Fish and Wildlife Service (USFWS), east of 13th Street, west of 16th Street, and southwest of Otay Valley Regional Park. Interstate 5 is located approximately 1 mile east of the project site.

2.2 Project Components

The project site is divided into three main components: the Bank Parcel, Parcels A, B, and C, and the berm breach location. The Bank Parcel is 83.5 acres and contains the southern portion of the former salt evaporation pond known as Pond 20. The Bank Parcel extends beyond the existing salt pond berms to also include Nestor Creek and the Otay River Tributary. The Wetland Mitigation Bank at Pond 20 (Bank Site) would be developed within the existing Pond 20 berms within the Bank Parcel. Parcels A, B, and C are immediately adjacent to the Bank Parcel but entirely outside the Pond 20 berms.

The proposed project includes a project-level and program-level component, both of which are evaluated in this EIR. The proposed project is evaluated as a whole because the components are connected through the proposed Port Master Plan Amendment (PMPA); however, the level of analysis varies for the two components based on the level of detail known at this time. Details are provided below.

1. **Wetland Mitigation Bank at Pond 20 (Project-Level) –** The District is proposing the creation of a wetland mitigation bank within a portion of District-owned property, which was historically used as salt evaporation pond (Bank Parcel). The project includes associated construction and long-term operation and maintenance activities of the mitigation bank. The Bank Parcel is District-owned property. However, currently this area is not yet incorporated into the Port Master Plan (PMP). The District is proposing a PMPA to incorporate the Bank Parcel into the District's PMP and assign a land use designation of Wetlands. The Wetlands designation is for undeveloped lands having high biological productivity and, as recognized by the PMP, may include areas designated for mitigation, or areas identified for potential wetland enhancement, restoration, and/or creation opportunities. The creation of the wetland mitigation bank, as well as the incorporation and land use designation of the wetland mitigation bank into the PMP, is evaluated at a project level in this EIR.

2. **PMPA for Parcels A, B, and C (Program-Level) –** As part of the PMPA, the District is proposing to incorporate Parcels A, B, and C into the District's PMP and assign land use designations. Parcels A, B, and C are District-owned property; however, currently these areas are not yet incorporated into the PMP. Parcels A, B, and C would be assigned a commercial recreation designation. Incorporation of Parcels A, B, and C is evaluated at a program level because the specific details of any future development proposal is currently unknown.

2.2.1 Wetland Mitigation Bank at Pond 20

The proposed mitigation bank involves the creation, restoration, and on-going maintenance and monitoring of tidal wetland habitat and upland buffer habitat. Implementation of the project would allow the District to establish a mitigation credit program that could compensate for future off-site impacts from other public and private development projects under Section 404 of the Clean Water Act, the California Coastal Act, the Porter-Cologne Water Quality Control Act, and the California Eelgrass Mitigation Policy. The credits available could be for the following habitats: high marsh, mid marsh, low marsh, intertidal mudflat, transitional habitat, and subtidal eelgrass habitat.

While the Bank Site itself is proposed to be approximately 80 acres, it is anticipated to provide approximately 76.48 acres of mitigation credit, including approximately 64.84 acres of subtidal and intertidal habitat establishment and 11.64 acres of transitional/upland buffer habitat restoration (Appendix C of the Final EIR). The remaining Bank Site acreage consists of existing perimeter berms that would remain in place as additional buffer areas.

The proposed mitigation bank would complement surrounding land uses by expanding valuable wetland habitat adjacent to the San Diego Bay NWR, providing essential wetland functions and services for adjacent communities, including storm surge and flood protection and stormwater buffering. The vegetation would act as attractors for local wildlife, and the overall wetland establishment and enhancement would increase other values, including improved water quality. Additional value enhancements include creating habitat to support spawning and breeding for native fish and birds; this would have indirect benefits to the local bird-watching and fishing, as well as providing habitat to support diverse fish populations and community assemblages within San Diego Bay and across coastal Southern California.

Additionally, the Board Policy Number 774[1] established the Pond 20 Economic Development Fund (EDF) in 2015, which requires the District to transfer all net revenue derived from the Bank Site to the EDF, which would then be equally divided between two sub-funds for designated projects in Imperial Beach and the adjacent portion of the City of San Diego's City Council District 8.

Key Restoration and Creation Elements

The proposed project is designed to be a self-sustaining marsh habitat matrix. The primary hydrologic source for the Bank Site would be unobstructed tidal inflows from San Diego Bay and the Otay River, which passes through protected NWR lands before entering the Bank Site. The inlet below the Bayshore Bikeway Bridge is approximately 70 feet wide and allows full passage of tidal flows under all tidal regimes. Additional water input to the Bank Site would come from precipitation and occasional stormwater inputs via internal loading and runoff from Palm Avenue. Tidal hydrology would be reestablished by breaching the Pond 20 northern perimeter berm. The District would excavate the

[1] Available at: https://pantheonstorage.blob.core.windows.net/administration/BPC-Policy-No-774-Pond-20-Economic-Development-Fund-EDF.pdf

Bank Site and a network of tidal channels to facilitate distribution of tidal flows to achieve inundation frequencies required by the following tidal open water, mudflat, and wetland habitat types:

- Intertidal mudflat habitat
- Low marsh habitat
- Mid-marsh habitat
- High marsh habitat
- Subtidal eelgrass

Additionally, restoration would include establishing a transition zone and upland habitats on the existing berms.

The District would install suitable native plant material and would salvage existing on-site native vegetation for reestablishment after construction of the mitigation bank. Using various protection, restoration, enhancement, and management strategies, the Bank Site would also provide ancillary habitat to support protected migratory and resident shorebird species and fishes in the region, such as intermittent openings to promote habitat for western snowy plover.

Otay River Estuary Restoration Project

The Otay River Estuary Restoration Project (ORERP) is a planned mitigation project (not a part of the proposed project) developed to offset impacts on marine organisms caused by the Poseidon Water Resources Desalination Facility located in Carlsbad, California. The ORERP site is located north, adjacent to the Bank Parcel within the San Diego Bay NWR under the jurisdiction of USFWS and comprises the northern portion of Pond 20. The ORERP is being implemented by the Poseidon Water Resources Desalination Facility, in partnership with USFWS. USFWS prepared the ORERP Final Environmental Impact Statement (EIS) in February 2018, with the Record of Decision issued in October 2018.

The proposed mitigation bank on the southern portion of Pond 20 owned by the District is being designed to be consistent with the wetlands and habitat to be created by the ORERP, with similar goals and objectives to protect, preserve, and facilitate establishment of habitats and species. Although the two restoration projects would be restored and operated independently of one another, the overall proximity of the two sites to the San Diego Bay NWR would increase habitat connectivity and contribute meaningful habitat and ecosystem services to the South San Diego Bay region.

Berm Breach and Channel Modification

Bank Site Perimeter Berm

The former salt pond known as Pond 20 (ORERP site and District-owned Bank Parcel) is currently enclosed by an existing berm along the southern bank of the Otay River that isolates both project sites from receiving tidal flows. There is no natural separation between the ORERP site and Bank Site. As discussed in the ORERP Final EIS, the ORERP project plans to breach a berm to the San Diego Bay to allow tidal flow into that ORERP site. To prevent flooding within the Bank Site, the ORERP Final EIS analyzes constructing a levee, in the form of an earthen berm, along the southern edge of the ORERP wetland restoration site to prevent tidal and/or flood waters from entering the Bank Site once construction at the ORERP site is complete. This would keep the Bank Site dry once the ORERP site

is operational. The National Environmental Policy Act (NEPA) compliance for construction of the earthen berm was included in the ORERP Final EIS.

Although approval of ORERP occurred in October 2018, construction has not yet started. Therefore, considering the unknown construction schedule of ORERP, if needed, the proposed project would construct an earthen berm on the southern edge of the ORERP site as part of the proposed project to ensure tidal separation of the project sites. The berm would be constructed with soil excavated from the project site. This berm allows for grading and dredging activities to occur for both projects independently while significantly reducing any potential for inundation to occur on the site that is completed last. Once both projects are constructed, the berm would be left in place.

Berm Breach

To reconnect tidal hydrology to the Bank Site, the existing berm surrounding Pond 20 would be breached. After the berm is breached, the network of constructed tidal channels would facilitate distribution of tidal flows to the Bank Site. The location of the berm breach was identified as the most efficient location. The berm breach is approximately 75 feet wide and would be partially within the San Diego Bay NWR (Assessor's Parcel Numbers 616-021-09).

United States Fish and Wildlife Service Special Use Permit

The earthen berm on the ORERP site and the berm breach component are on San Diego Bay NWR property and are, therefore, subject to a Refuge Special Use Permit, administered by the USFWS. Because USFWS approval is required for the berm breach, NEPA compliance is required. An Environmental Assessment/Finding of No Significant Impact would be prepared by USFWS as a separate action.

Operation, Maintenance, and Monitoring

Bank Establishment

Establishment of the Wetland Mitigation Bank at Pond 20 would be completed using the process outlined by the *Draft Compensatory Mitigation Rule Timeline for Bank or ILF Instrument Approval*. The District is required to prepare a draft bank enabling instrument (BEI) to be submitted for review to the interagency review team coordinated by ACOE and consisting of the U.S. Environmental Protection Agency, USFWS, National Marine Fisheries Service, California Coastal Commission (CCC), and San Diego and Santa Ana Regional Water Quality Control Boards (RWQCB). The District would then prepare a final BEI, which would be considered for approval by ACOE, CCC, and U.S. Environmental Protection Agency (Region IX). A BEI is an agreement between the mitigation bank project sponsor and the regulatory agencies that establishes liability, management and monitoring requirements, performance standards for the mitigation bank, and the terms of approval of the establishment and use of mitigation bank credits. Credit transfers may begin once the BEI has been fully executed by all parties.

Operation and maintenance of the Bank Site would be financed by the District’s operational funds, including the EDF established by BPC Policy No. 774.

Success Criteria and Monitoring

In November 2017, the ACOE evaluated the Evaluation for Planned Wetlands as the project functional assessment for wetland restoration projects. Evaluation for Planned Wetlands is a rapid assessment procedure to document the pre- and post-restoration differences for wetland site conditions and is used to set the restoration goals success criteria for the proposed project. Performance standards cover each type of credit established by the project, including establishment of subtidal eelgrass habitat, tidal and intertidal marsh wetland habitat, and upland buffer/transitional habitat. A 5-year monitoring schedule would be established, but, if all performance standards are met prior to the 5th year of monitoring, all bank credits would be released. The monitoring program would be prepared and approved under a separate process with the interagency review team; however, for purposes of this EIR a conservative estimate of monthly monitoring by one vehicle is assumed.

Long-Term Management and Maintenance

Once all performance standards have been met, the Bank Site is anticipated to be self-sustaining. However, because of the urban surroundings, long-term management may be needed, such as:

- Invasive species monitoring and removal;
- Trash removal;
- Maintenance of site control measures (e.g., fencing); or
- Restoration of any damage from human or maintenance activities or natural phenomenon.

Additionally, contingency measures and adaptive management measures are proposed in the long-term management plan prepared for the draft BEI, which is subject to review and comment by the interagency review team. Final measures would be available with the final BEI. Long-term management and maintenance is assumed to be infrequent annual visits by one vehicle.

Post-Success Criteria Operation

Operation of the mitigation bank includes providing compensatory mitigation credits for impacts on marine, wetland, and transitional habitat within the service area that are authorized under Section 404 of the Clean Water Act, the California Coastal Act, and the Porter-Cologne Water Quality Control Act, as well as impacts on eelgrass habitat under the California Eelgrass Mitigation Policy. The bank would provide compensatory mitigation to intertidal wetlands, salt marsh, and subtidal eelgrass habitat, and the mitigation of freshwater wetland impacts.

2.2.2 Port Master Plan Amendment

The PMP provides the official planning policies, consistent with a general statewide purpose, for the physical development of the tidelands and submerged lands conveyed and granted in trust to the District. A PMPA is proposed to incorporate the Bank Parcel and Parcels A, B, and C into the PMP. The proposed PMPA includes assigning land use designations and adding one vista area to each commercial recreation parcel, as well as one promenade on Parcel A and one promenade on Parcel C, once developed. The PMPA would incorporate the Bank Parcel and Parcels A, B, and C into the PMP in Planning District 9: South Bay Salt Lands.

Bank Parcel

The District-owned Bank Parcel is not currently in the PMP, and therefore, does not currently have a land use designation. As a result, a PMPA would be processed to incorporate the Bank Parcel into the PMP. If adopted by the BPC and certified by the CCC, the PMPA would allow the District to issue a non-appealable Coastal Development Permit for the construction and establishment of wetlands on the Bank Site. To provide long-term assurance, the District proposes to designate the approximately 83.47 acres of the Bank Parcel as wetlands in the PMP through the PMPA process. The wetlands designation is reserved for habitat, wildlife conservation, and environmental protection.

District-Owned Parcels A, B, and C

District-owned Parcels A, B, and C are located along the eastern and western borders of the Bank Parcel. These parcels would be incorporated into the PMP and assigned a commercial recreation land use designation, consistent with the intent of BPC Policy No. 774, as part of the PMPA process. The PMPA would also include adding one vista area to each of these three parcels, as well as one promenade on Parcel A and one promenade on Parcel C (Appendix B). The PMP allows for the following uses under the commercial recreation land use designation: hotels, restaurants, convention center, recreational vehicle parks, specialty shopping, pleasure craft marinas, water-dependent educational and recreational program facilities and activities, dock and dine facilities, and sportfishing. However, the PMPA specifies that uses such as convention center, pleasure craft marina, dock and dine facilities, and sportfishing would not be allowed on Parcels A, B, or C.

Importantly, because no specific commercial development project is proposed at this time, potential future development that may occur on Parcels A, B, and C is analyzed at the conceptual level (i.e. program-level). Future development on any of these parcels would be considered a discretionary action and would require environmental review pursuant to CEQA Guidelines Section 15168.

Additionally, a PMPA would be required prior to the approval of any specific development proposal on the undeveloped portions of Parcels A, B, and/or C. The subsequent PMPA would include more specific development standards and would set specific development limitations, as needed, to implement the CCA and PMP and would be sized and designed in consultation with the applicable regulatory agencies. Notably, the previously developed portion of Parcel B would be subject to different development limitations due to its current developed state and would not require a subsequent PMPA. Upon completion of a PMPA, as may be required for future development of Parcels A, B, and/or C, additional discretionary approvals from the District, such as a CDP and project approval, may be required.

Incorporation of Parcels A, B, and C into the PMP is evaluated at a program level. As described above, no development is proposed on these parcels at this time; however, the following reasonable development assumptions are considered in the program-level analysis:

- **Parcel A –** maximum commercial development of 25,000 square feet and two stories
- **Parcel B –** maximum commercial development of 5,000 square feet and two stories
- **Parcel C –** maximum commercial development of 75,000 square feet and two stories

2.3 Project Objectives

The basic project objectives of the proposed project include the following:

- Incorporate the Bank Parcel into the PMP and assign a land use designation to be compliant with the Port Act and California Coastal Act
- Create a wetland mitigation bank that produces revenue by offering the business community and government agencies the opportunity to purchase predeveloped wetland mitigation credits to mitigate project impacts on wetland habitat
- Enhance ecological functions at the Bank Parcel by providing forage and nesting habitat for native bird species and habitat for native fish species while also creating additional environmental co-benefits such as, but not limited to, carbon sequestration, nutrient cycling, and water quality filtration
- Reduce the chance and scale of flooding within the surrounding off-site area through the Bank Parcel under the existing condition by designing greater capacity to contain stormwater and coastal waters within the Bank Parcel
- Establish tidal influence and create coastal wetlands by reconnecting the Bank Site to tidal flows from San Diego Bay
- Provide long-term protection for the Bank Site by reaching native vegetation coverage and sediment surface elevation success criteria, while providing access for long-term monitoring and restoration of wetlands, as needed
- Incorporate the District-owned Parcels A, B, and C into the PMP and assign a land use designation to be compliant with the Port Act and California Coastal Act
- Support economic development and community investment consistent with the District's adoption of BPC Policy Number 774 (i.e., the Pond 20 EDF) (BPC 2015)
- Promote future development on Parcels A, B, and C that complements adjacent uses

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3 Environmental Procedures

3.1 Lead Agency

Pursuant to CEQA Guidelines Section 15367, the District is the lead agency for the purpose of preparing the environmental review required by CEQA. The environmental review prepared by the District would be used by the Board in connection with its decision to certify the EIR, approve the proposed project, and issue a Coastal Development Permit. The CCC, as a CEQA responsible agency, may also use the EIR to certify the PMPA.

3.2 Environmental Impact Report

Pursuant to CEQA Guidelines Section 15080, et seq., the District prepared an EIR to analyze the potential impacts of the proposed project on the environment. The Final EIR contains all the information required by CEQA Guidelines Section 15132, including the Draft EIR and the appendices to the Draft EIR.

Environmental review of the proposed project began on June 20, 2019, with the publication of the Notice of Preparation (NOP) of the EIR for a 30-day public review period with the County of San Diego County Clerk, in accordance with Section 15082 of the CEQA Guidelines. The NOP was mailed to 360 recipients, including public agencies, organizations, and other interested individuals to solicit their comments on the scope and content of the environmental analysis. A summary of the NOP was posted on the District's website and made available to the public at the Office of the District Clerk and County of San Diego County Clerk's office. A public scoping meeting was held on July 10, 2019.

A total of nine comment letters responding to the NOP were received during the NOP comment period and scoping meeting. A follow up letter from California Department of Transportation was received on May 1, 2020. A copy of the NOP and written comments received in response to the NOP are included in Appendix A of the Final EIR.

Comments received in response to the NOP were used to determine the scope of this EIR. Based on the District's preliminary evaluation of the probable effects of the proposed project documented in the Initial Study (Appendix A of the Final EIR) and a thorough review of the comments on the NOP, it was determined that the Draft EIR should analyze the effects associated with the following resources:

- Aesthetics
- Air quality
- Biological resources
- Cultural Resources
- Energy
- Geology and soils
- Greenhouse gas (GHG) emissions
- Hazards and hazardous materials
- Hydrology and water quality
- Land use and planning

- Noise
- Public Services
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems

It was determined during preparation of the Initial Study that the project would have either a less than significant impact or no impact associated with the following topics:

- Agriculture and forestry resources
- Mineral resources
- Population and housing
- Recreation
- Wildfire

Additionally, the Draft EIR was required to include other CEQA substantive sections, including an executive summary, introduction, project description, cumulative impacts, additional consequences of project implementation, and alternatives.

The Draft EIR was circulated for a 45-day public review period (August 20, 2020, through October 5, 2020) in accordance with Section 15087 of the CEQA Guidelines. Twelve letters were received during the public review period and are responded to in Chapter 7.0, Response to Comments, of the Final EIR.

3.3 Record of Proceedings

For the purposes of CEQA and the Findings, the administrative record of the District's decision concerning certification of the Final EIR for the proposed project includes the following:

- Draft EIR (August 2020)
- Final EIR (April 2021)
- Appendices to the Draft EIR and the Final EIR
- All documents and other materials listed as references or incorporated by reference in the Draft EIR and Final EIR, including but not limited to the materials identified in the Chapter 9, References, of the Final EIR
- All reports, applications, memoranda, maps, letters, and other documents prepared by the District's staff and consultants for the proposed project, which are before the Board and are public records
- Mitigation Monitoring and Reporting Program (MMRP) for the project
- All documents or other materials submitted by interested people and public agencies in connection with the Draft EIR and the Final EIR

- Minutes, tape recordings, and verbatim transcripts (if available) of the public hearing held on April 13, 2021, concerning the Final EIR and the proposed project
- Matters of common knowledge to the Board and the District, including but not limited to the PMP
- All Findings and resolutions adopted by the Board in connection with the project (including these Findings) and all documents cited or referred to therein
- Any documentary or other evidence submitted to the District at information sessions, public meetings, and public hearings concerning the Final EIR and the project
- Any other materials required to be in the record of proceedings by California Public Resources Code, Section 21167.6(e)

The District Clerk is the custodian of the documents and other materials composing the administrative record of the District's decision concerning certification of the Final EIR. The location of the administrative record is the District's office at 3165 Pacific Highway, San Diego, California 92101 (California Public Resources Code, Section 21081.6[a][2]).

The Board has relied on all of the documents listed above in reaching its decision on the proposed project, even if not every document was formally presented to the Board as part of the District files generated in connection with the project. Without exception, any documents set forth above not found in the project files fall into one of two categories. Many of them reflect prior planning or legislative decisions of which the District was aware in approving the project. Other documents influenced the expert advice provided to District staff or consultants, who then provided advice to the Board. For that reason, such documents form part of the underlying factual basis for the Board's decisions relating to the approval of the project.

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4 Findings Under CEQA

4.1 Purpose

California Public Resources Code, Section 21002, states that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” The same section states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 states that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects.”

California Public Resources Code, Section 21002, is implemented, in part, through the requirement that agencies adopt written Findings before approving projects (California Public Resources Code, Section 21081; CEQA Guidelines, Section 15091). Specifically, CEQA requires the District to make written findings of fact for each significant environmental impact identified in the Final EIR (CEQA Guidelines, Sections 15091, 21081).

In accordance with CEQA, the purpose of the Findings is to systematically restate the significant effects of the proposed project on the environment and to determine the feasibility of mitigation measures and alternatives identified in the Final EIR that would avoid or substantially lessen the significant effects. If significant impacts remain after application of all feasible mitigation measures, the District must review the alternatives identified in the Final EIR and determine if they are feasible. These Findings set forth the reasons and the evidence in support of the District’s determinations.

4.2 Terminology

A Finding is a written statement made by the District that explains how the District dealt with each significant impact and alternative identified in the Final EIR. Each Finding contains a conclusion regarding each significant impact, substantial evidence supporting the conclusion, and an explanation of how the substantial evidence supports the conclusion.

For each significant effect identified in the Final EIR, the District is required by CEQA Guidelines, Section 15091(a), to make a written Finding reaching one or more of the following conclusions:

1. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect, as identified in the final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make the mitigation measures or project alternatives identified in the final EIR infeasible.

A mitigation measure or an alternative is considered feasible if it is capable of being accomplished in a successful manner within a reasonable period of time, while taking into account economic, environmental, legal, social, and technological factors (California Public Resources Code, Section 21061.1; CEQA Guidelines, Section 15364; see also Citizens of Goleta Valley v. Board of Supervisors [Goleta II] [1990] 52 Cal.3d 553, 565).

The concept of feasibility also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project (City of Del Mar v. City of San Diego [1982] 133 Cal.App.3d 410, 417). “Feasibility under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors” (City of Del Mar v. City of San Diego [1982] 133 Cal.App.3d 410, 417; see also Sequoyah Hills Homeowners Assn. v. City of Oakland [1993] 23 Cal.App.4th 704, 715). Thus, “in the context of project approval, a public agency may find that an alternative is ‘infeasible’ if it determines, based upon the balancing of the statutory factors, that an alternative cannot meet project objectives or ‘is impractical or undesirable from a policy standpoint’” (Los Angeles Conservancy v. City of West Hollywood [2017] 18 Cal.App.5th 1031, 1041). Therefore, “broader considerations of policy thus come into play when the decision-making body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives” (California Native Plant Society v. City of Santa Cruz [2009] 177 Cal.App.4th 957, 1000).

CEQA also requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. The CEQA Guidelines do not define the difference between avoiding a significant environmental effect and substantially lessening such an effect. Therefore, the District must glean the meaning of these terms from other contexts in which the terms are used. California Public Resources Code, Section 21081, on which CEQA Guidelines, Section 15091 is based, uses the term “mitigate” rather than “substantially lessen;” therefore, the CEQA Guidelines equate mitigating with substantially lessening. Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects” (California Public Resources Code, Section 21002). For the purposes of these Findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level.

With respect to a project where significant impacts are not avoided or substantially lessened, either through the adoption of feasible mitigation measures or a feasible alternative, a public agency (after adopting proper Findings) may nevertheless approve the project if the agency adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s benefits rendered its unavoidable adverse environmental effects acceptable (CEQA Guidelines, Sections 15093, 15043(b); California Public Resources Code, Section 21081[b]). The California Supreme Court has stated that “the wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced” (Citizens of Goleta Valley v. Board of Supervisors [1990] 52 Cal.3d 553, 576).

A statement of overriding considerations is required for the approved project because, despite implementation of all feasible mitigation measures, the project as approved would have significant impacts on GHG emissions, noise, and transportation that could not be avoided or reduced to a level less than significant.

4.3 Legal Effect

To the extent that these Findings conclude that mitigation measures identified in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the District hereby binds itself and any other responsible parties to implement these mitigation measures. These Findings are not merely informational but constitute a binding set of obligations for the District and responsible parties, which take effect if and when the District adopts a resolution certifying the Final EIR and the District adopts resolutions approving the project.

4.4 Mitigation Monitoring and Reporting Program

Pursuant to Public Resources Code Section 21081.6, the District has adopted a detailed MMRP. The program is designed to ensure that all mitigation measures hereafter required are in fact implemented on a timely basis as the project is implemented. The program is set forth in the “Wetland Mitigation Bank at Pond 20 and PMPA Project MMRP,” which is adopted by the District concurrently with these Findings and is incorporated herein by this reference.

4.5 Certification of the Final EIR

Pursuant to CEQA Guidelines, Section 15090, the Board further finds and certifies the following:

1. The Final EIR has been completed in compliance with CEQA.
2. The Final EIR has been presented to the Board, which constitutes the decision-making body of the lead agency, and the Board has reviewed and considered the information contained in the Final EIR before approving the project.
3. The Final EIR reflects the District’s independent judgment and analysis.

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5 Findings of Significant Impacts, Required Mitigation Measures, and Supporting Facts

The proposed project would result in direct and indirect significant and potentially significant environmental effects with respect to aesthetics, biological resources, cultural resources, energy, geology and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, noise, transportation, tribal cultural resources, and utilities and service systems. These significant environmental effects and the mitigation measures identified to avoid or substantially lessen them are discussed in detail in the Final EIR Section 3.1, Aesthetics; Section 3.3, Biological Resources; Section 3.4, Cultural Resources; Section 3.5, Energy; Section 3.6, Geology and Soils; Section 3.7, Greenhouse Gas Emissions; Section 3.8, Hazards and Hazardous Materials; Section 3.9, Hydrology and Water Quality; Section 3.11, Noise; Section 3.13, Transportation; and Section 3.15, Utilities and Service Systems. A summary of significant impacts and mitigation measures for the project is included in the Final EIR Executive Summary.

Below are the Findings regarding the potential significant effects of the approved project. The Findings incorporate the discussion of potentially significant impacts and mitigation measures in the Final EIR.

5.1 Aesthetics

5.1.1 Light and Glare

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on aesthetic resources for the program-level PMPA for Parcels A, B, and C because future commercial development may introduce a new source of substantial light or glare if reflective building materials are used or nighttime lighting is implemented. Detailed information and analysis regarding this significant potential impact are provided in Section 3.2, Aesthetics, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.1, Aesthetics, of the Final EIR, the potentially significant impact on aesthetics from implementation of the PMPA for Parcels A, B, and C due to new sources of light or glare would be mitigated to a level less than significant with the implementation of Mitigation Measure (MM) AES-1 and AES-2. MM AES-1 would require incorporation of nonreflective and reduced glare building materials in the design of commercial development which would result in no new source of glare, and MM AES-2 would require any nighttime security lighting be shielded downward which would result in no new source of substantial light that would adversely affect nighttime views in the area.

MM AES-1 **Reduced Glare Building Materials.** The commercial development project proponent shall incorporate nonreflective or reduced glare building materials in the design of any structures proposed for development on Parcels A, B, and C consistent with applicable municipal codes. Any glass incorporated into the design shall either be low reflectivity or accompanied by a nonglare coating. Prior to building permits

being issued for construction, the District shall confirm reduced glare building materials are included on the appropriate building plans.

MM AES-2 **Shield or Downcast Nighttime Lighting.** The commercial development project proponent shall ensure that all nighttime lighting, either for nighttime construction or security lighting, shall be shielded downward to avoid any light spillover off site and lighting shall be limited to an amount required for safety of construction personnel and security of construction equipment.

5.2 Biological Resources

5.2.1 Special Status Species

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on special status species for both the wetland mitigation bank and the PMPA for Parcels A, B, and C. While no special status plant species have been observed in the project site, nine special status species, including one federally and state-listed endangered species, have the potential to occur within suitable habitat in the project site. Several federally and state-listed wildlife species are known to occur or have potential to occur within and adjacent to the proposed Bank Site, including Belding's savannah sparrow, California least tern, Ridgway's rail (light-footed), coastal California gnatcatcher, and western snowy plover. Implementation of the project has the potential to directly or indirectly impact suitable nesting or foraging habitat for these species. Detailed information and analysis regarding this potential significant impact are provided in Section 3.3, Biological Resources, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the wetland mitigation bank's potentially significant impact on special status species would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-2, MM BR-3, MM BR-4, MM BR-5, MM BR-6, MM BR-10, and MM HY-1. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the potentially significant impact on special status species from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-2, MM BR-3, MM BR-4, MM BR-5, MM BR-7, MM BR-8, and MM BR-10.

Implementation of MM BR-1 would require implementation of biological resource protection measures during construction, which would reduce impacts on special status plants and wildlife by requiring a range of measures, such as conducting Worker Environmental Awareness Program (WEAP) training to ensure contractors are made aware of and implement all compliance requirements; removing vegetation outside of bird nesting season to the extent feasible to avoid direct impacts on nesting adults or chicks; conducting preconstruction nesting surveys and implementing construction avoidance buffers as needed to avoid indirect impacts on special status avian species, such as nest abandonment or failure due to increased predation, noise, vibrations, or dust and interference with communication between adults and juveniles; and implementing BMPs to avoid introducing pollutants to adjacent ecosystems. Implementation of MM BR-2 would require preconstruction rare plant surveys,

which would identify target species that would need to be restored on site after construction or would require compensatory mitigation. Implementation of MM BR-3 would require restoration of temporary impacts, which would minimize long-term impacts on special status biological resources from temporary construction activities as well as minimizing potential indirect impacts from degraded habitat adjacent to suitable habitat. Implementation of MM BR-4 would require preconstruction avian surveys for federally and state-listed species to determine presence of these species and install appropriate nest avoidance buffers to avoid indirect impacts on special status avian species, such as nest abandonment or failure due to increased predation, noise, vibrations, or dust, and interference with communication between adults and juveniles. Implementation of MM BR-5 would require preconstruction surveys for burrowing owl to determine presence of the species and install appropriate buffers during construction. Implementation of MM BR-6 would require a long-term operations maintenance and management plan for the mitigation bank to minimize the introduction of invasive species, ensure BMPs are implemented during maintenance and monitoring visits so that active nests and special status species would not be disturbed, and to establish long-term performance standards and monitoring methodology to ensure long-term function of the wetland mitigation bank as necessary to sustain the special status species habitat. Implementation of MM BR-7 would require biological resource protection measures to be implemented during operations. Implementation of MM BR-8 would require wildlife surveys be conducted on Parcels A, B, and C prior to construction to determine the presence of species in order to avoid impacts or determine if compensatory mitigation would be required. Implementation of MM BR-10 would require compensatory mitigation to replace impacted suitable habitat for federally and state-listed species, as needed, and sustain the current distribution of sensitive habitat. Implementation of MM HY-1 would require a Bridge and Channel Scour Monitoring and Maintenance Program. In particular, the program would include habitat monitoring downstream of the project site where long-term scour may alter the channel width during operations; therefore, should loss of special status habitat occur, compensatory mitigation would be required.

MM BR-1 **Implement Biological Resource Protection Measures During Construction.** The District (or project proponent) shall implement the following BMPs during construction to minimize direct and indirect impacts on special status species and their habitats.

a) Prior to the commencement of construction, the District (or project proponent) shall designate a Project Biologist (a person with, at minimum, a bachelor's degree in biology, ecology, or environmental studies with familiarity with federally and/or state listed plant and wildlife species and other, nonlisted special status plant and wildlife species with the potential to be impacted by the project) who shall be responsible for overseeing compliance with the protective measures for biological resources identified herein during vegetation clearing and work activities within and abutting areas of native habitat. The Project Biologist shall be familiar with the local habitats, plants, and wildlife, and shall maintain communications with the contractor to ensure that issues relating to biological resources are appropriately managed. The Project Biologist may designate qualified biologists or biological monitors to help oversee project compliance or conduct the preconstruction surveys for special status species identified in MM BR-2, MM BR-4, and MM BR-8. These biologists shall have familiarity with the species for which they would be conducting preconstruction surveys or monitoring construction activities.

b) The Project Biologist or designated qualified biologist shall review final plans, designate areas not proposed for disturbance that need temporary fencing per subsection (h) below (e.g., sensitive habitat area [SHA] fencing), and monitor construction activities within and adjacent to areas with native vegetation communities or special status plant and wildlife species. The qualified biologist shall monitor activities during critical times such as vegetation removal, initial ground-disturbing activities, and the installation of BMPs and fencing to protect native species, and shall ensure that all wildlife and regulatory agency permit requirements, conservation measures, and general avoidance and minimization measures are properly implemented and followed. The qualified biologist shall monitor the SHA fencing and shall provide corrective measures to the contractor to ensure that the fencing is maintained throughout construction. The qualified biologist shall have the authority to stop work and redirect work if a special status wildlife species is encountered within the project area during construction until the Project Biologist or qualified biologist determine(s) that the animal would not be harmed (i.e., no ground disturbing activities are proposed within 100 feet) or it has left the construction area on its own. Also see subsection (e) below.

c) Prior to the start of construction, all project personnel and contractors who would be on site during construction shall complete mandatory training conducted by the Project Biologist or a designated qualified biologist. Any new project personnel or contractors that come on board after the initiation of construction shall also be required to complete the mandatory WEAP training prepared and conducted by the Project Biologist before they commence with work. The training shall advise workers of potential impacts on sensitive habitat and federally and/or state listed and other special status species and the potential penalties for impacts on such habitat and species. At a minimum, the training shall include the following topics: (1) occurrences of the special status species and sensitive vegetation communities in the project area (including vegetation communities subject to ACOE, California Department of Fish and Wildlife (CDFW), and RWQCB jurisdiction), (2) protective measures to be implemented in the field, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced areas to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); (3) the protocol to resolve conflicts that may arise at any time during the construction process; and (4) reporting requirements and procedures to follow should a federally and/or state listed species be encountered during construction.

d) The training program shall include color photos of federally and/or state listed species, other special status species, and sensitive vegetation communities. Following the education program, the photos shall be posted in the contractor and resident engineer's office where the photos shall remain throughout the duration of project construction. Photos of the habitat in which sensitive species are found shall be posted on site. The contractor shall be required to provide the District with evidence of the employee training (e.g., a sign-in sheet) on request.

   Project personnel and contractors shall be instructed to immediately notify the Project Biologist or designated biologist of any incidents that could affect sensitive vegetation communities or special status species. Incidents could

include fuel leaks or injury to any wildlife. The Project Biologist shall notify the District of any incident within 24 hours of being noticed.

e) Vegetation removal and initial ground disturbance shall occur outside of the bird nesting season (February 1 – September 15) if feasible. Should vegetation removal or initial ground disturbance be required during the bird nesting season, the Project Biologist must conduct a preconstruction nesting survey. Should active nests be present, a construction avoidance buffer of 300 feet is required until the young have fledged or the nest has failed naturally. The biologist may reduce the buffer if, in their professional judgment, topography or other factors mitigate potential impacts from construction vibration, noise, dust, and visual intrusion. For federally and state listed species, see MM BR-4.

f) The Project Biologist shall have the authority to halt work, and redirect work if necessary, to ensure the proper implementation of species and habitat protection. The Project Biologist shall report any noncompliance issues to the District within 24 hours of its occurrence.

g) The Project Biologist shall monitor the project site immediately prior to and during construction to identify the presence of invasive weeds and shall recommend measures to avoid their inadvertent spread in association with the project. All construction equipment shall be washed and cleaned of debris prior to entering the construction site to minimize the spread of invasive weeds.

h) All habitat regulated by CCC, ACOE, RWQCB, USFWS, National Marine Fisheries Service, and/or CDFW, and habitat with potential to support special status species outside of, and abutting, the designated project limits of disturbance shall be designated as SHAs on project maps. Prior to construction, the Contractor shall delineate the project limits, including construction, staging, lay-down, and equipment storage areas, and erect the construction boundary, with fencing or flagging, along the perimeter of the identified construction area to protect adjacent sensitive habitats and sensitive-plant populations. SHAs shall be clearly delineated with fencing or flagging or other BMPs prior to construction to inform construction personnel where the SHAs are located and shall be confirmed by the Project Biologist or designated biologist prior to construction. SHAs fencing may include orange plastic snow fence, orange silt fencing, or stakes and flagging in areas of flowing water. No personnel, equipment, or debris shall be allowed within the SHAs. Fences and flagging shall be installed by Contractor in a manner that does not impact habitats to be avoided and such that it is clearly visible to personnel on foot and operating heavy equipment. 10 days prior to initiating construction, the Contractor shall submit to the District final plans for initial clearing and grubbing project construction. These final plans shall include photographs that show the fenced and flagged environmentally SHAs limits and all areas to be impacted or avoided. If work occurs beyond the fenced or demarcated limits of impact, all work shall cease until the problem has been remedied. Temporary construction fences and markers shall be maintained in good repair by the Contractor during construction and shall be removed upon completion of project construction.

i) No work activities, materials or equipment storage, or access shall be permitted outside the project limits without permission from the District. All parking and equipment storage by the contractor related to the project shall be confined to the project limits. Contractor shall not conduct work in undisturbed areas and sensitive habitat outside and adjacent to the project limits shall not be used for parking or equipment storage. Project-related vehicle traffic shall be restricted to the project limits and established roads and construction access points.

j) Construction activities shall be limited to daylight hours to the extent feasible. If nighttime activities are unavoidable, then workers shall direct all lights for nighttime lighting into the work area and shall minimize the lighting of natural habitat areas adjacent to the work area. The contractor shall use light glare shields to reduce the extent of illumination into sensitive habitats. If the work area is located near surface waters, the lighting shall be shielded such that it does not shine directly into the water.

k) Clearing shall be confined to the minimal area necessary to facilitate construction activities. Cleared vegetation and spoils shall be disposed of daily at a permanent off-site spoils location or at a temporary on-site location that would not create habitat for special status wildlife species. Spoils and dredged material shall be disposed of at an approved site or facility in accordance with all applicable federal, state, and local regulations.

l) Food-related and other garbage shall be disposed of in wildlife-proof containers and shall be removed from the project area daily during the construction period. Vehicles carrying trash or hauling dirt/sediment shall be required to have loads covered and secured to prevent dirt, trash, and debris from falling onto roads and adjacent properties.

m) All construction equipment used for the project shall be maintained in accordance with manufacturer’s recommendations, and requirements and shall be maintained to comply with noise standards (e.g., exhaust mufflers, acoustically attenuating shields, shrouds, or enclosures).

n) The Contractor shall store all construction-related vehicles and equipment in the designated staging areas.

o) The Contractor shall avoid wildlife entrapment by completely covering or providing escape ramps for all excavated steep-walled holes or trenches more than 1 foot deep at the end of each construction workday. The qualified biologist shall inspect open trenches and holes and shall remove or release any trapped wildlife found in the trenches or holes prior to filling by the construction contractor

p) Special status wildlife can be attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar features; construction equipment; or construction debris left overnight in areas that may be occupied by special status species that could occupy such structures shall be inspected by a qualified biologist prior to being used for construction. Such inspections shall occur at the beginning of each day’s activities for those materials to be used or moved that day. If necessary, and under the direct supervision of the biologist, the structure may be moved up to one time to isolate it from construction activities, until the special status

species has moved from the structure of their own volition or has been captured and relocated.

q) The spread of dust from work sites to sensitive natural communities or sensitive-species habitats on adjacent lands shall be minimized by use of a water truck. Dirt access roads, haul roads, and spoils areas shall be watered to prevent the spread of dust. Follow a stormwater pollution prevention plan to reduce dust emissions.

r) The Contractor shall strictly limit their activities, vehicles, equipment, and construction materials to established roads and the project disturbance limits. Signs shall be posted within the staging area, nonpaved access routes, and project site with a maximum 15 mile per hour speed limit.

s) To prevent harassment, injury, or mortality of sensitive wildlife by dogs or cats, no canine or feline pets shall be permitted in the active construction area.

t) Plastic monofilament netting or similar material shall not be used for erosion control because smaller wildlife may become entangled or trapped in it. Acceptable substitutes include coconut coir matting or tackifier hydroseeding compounds. This limitation shall be communicated to the contractor through specifications or special provisions included in the construction bid solicitation package.

u) Pest and weed management shall be conducted in compliance with the District's Integrated Pest Management Plan.

v) Hazardous materials and equipment stored overnight, including small amounts of fuel to refuel hand-held equipment, shall be stored within secondary containment per the stormwater pollution prevention plan.

w) The Contractor shall be required to conduct vehicle refueling in upland areas where fuel cannot enter waters of the U.S. (WOUS) or waters of the state and in areas that do not have potential to support sensitive habitat or federally and/or state listed species. Any fuel containers, repair materials including creosote-treated wood, and/or stockpiled material that is left on site overnight shall be secured in secondary containment within the work area and staging/assembly area and covered with plastic at the end of each workday.

x) In the event that no activity is to occur in the work area for the weekend and/or a period of time greater than 48 hours, the Contractor shall ensure that all portable fuel containers are securely locked and/or removed from the project site.

y) Equipment and containers shall be inspected daily for leaks. Should a leak occur, contaminated soils and surfaces shall be cleaned up and disposed of following the guidelines identified in the stormwater pollution prevention plan, Materials Safety Data Sheets, and any specifications required by other permits issued for the project.

z) The Contractor shall utilize off-site maintenance and repair shops as much as possible for maintenance and repair of equipment.

aa) If maintenance of equipment must occur on site, fuel/oil pans, absorbent pads, or appropriate containment shall be used to capture spills/leaks within all areas. Where feasible, maintenance of equipment shall occur in upland areas where fuel cannot enter WOUS or waters of the state and environmentally SHAs.

MM BR-2 **Preconstruction Rare Plant Surveys.** Protocol rare plant surveys shall be conducted to locate special status plant species onsite prior to the start of construction. Should a significant population (>3 individuals) of the target species (estuary seablite, Pacific saltbush, Coulter's goldfields, Nuttall's acmispon, beach goldenaster, aphanisma, beach goldenaster, and Lewis' evening primrose) be identified, the District (or project proponent) shall collect seed from those individuals present within the impact areas and broadcast 50-percent of the seed in the appropriate restoration areas following soil preparation as supervised by a qualified Lead Biologist (Lead Biologist Minimum Qualifications: Bachelor's degree in Biology [or equivalent, such as a degree in Natural Resources] and a minimum of 5 years of restoration experience or equivalent, such as restoration certification and at least 12 semester units of botany course work or 100 hours of independent study with CNPS or other local botanical society, or 5+ years of seed collection and propagation experience with the target genera). Seeding shall be considered successful if the target species is observed at least twice over a 5-year period. Fifty-percent of the collected seed shall be stored by a reputable seed bank. Should the seeded areas not meet the performance criteria defined above, the District shall identify an appropriate off-site location to implement a germination and habitat suitability study. The study would review existing available literature and include methodology to test abiotic factors essential for growth of the target species, including, but not limited to, soil pH, permeability, slope, sun exposure, and rain fall frequency, duration, and distribution patterns. Metrics would include germination rates, survival rates, and productivity based upon seed or fruit set.

Should salt marsh bird's beak, a federally and state endangered species, be observed during preconstruction surveys and subject to direct impacts, a CDFW Section 2081 Incidental Take Permit is required. Compensatory mitigation for net loss of suitable habitat at a minimum of 1:1 establishment, enhancement or preservation and long-term management shall be required.

MM BR-3 **Restoration of Temporary Impacts.** To avoid or minimize the permanent loss or degradation of sensitive or special status habitat resulting from temporary project features, any areas that are temporarily disturbed shall be restored to preconstruction conditions and vegetated with appropriate native plant species once construction is complete. This includes potential impacts to seablite scrub, pickleweed mats, salt pan, and open water that are subject to regulation by CCC, ACOE, and RWQCB and may be subject to regulation by CDFW, as well as habitat with potential to support special status biological resources. To avoid or minimize any long-term impacts on habitat or vegetation, staging areas, access routes, and other temporarily disturbed areas shall be decompacted and recontoured to ensure proper site drainage and revegetated with appropriate native species at a 1:1 ratio. Any temporary equipment, structures, or utilities (e.g., water, power) installed at the project site shall be removed at the completion of construction. Any temporary disturbance lasting longer than 12 months shall be mitigated as detailed MM BR-10.

MM BR-4 **Preconstruction Surveys for Federally and State Listed Avian Species.** Initial clearing, ground disturbance, and other construction activities shall occur outside of the nesting bird season (i.e. outside of February 1 – September 15) to the maximum extent feasible. Should construction activities need to occur during the nesting bird season, prior to initiation of construction, a District -approved biologist shall:

a) Perform a minimum of three focused surveys, on separate days, to determine the presence of Ridgway's rail (light-footed), western snowy plover, coastal California gnatcatcher, California least tern, or Belding's savannah sparrow nest building activities, egg incubation activities, or brood rearing activities within 500 feet of project construction proposed during the nesting season that could impact these species. The surveys shall begin a maximum of 7 days prior to project construction and one survey shall be conducted the day immediately prior to the initiation of work. Additional surveys shall be done once a week during project construction in the nesting season. These additional surveys may be suspended once fledglings have left the nest or if noise at the edge of nesting habitat is less than 60 A-weighted decibels (dBA) equivalent sound level (L_{eq}) where the berm occurs between construction and nesting activities.

b) If an active Ridgway's rail (light-footed), western snowy plover, coastal California gnatcatcher, California least tern, or Belding's savannah sparrow nest is found within a minimum of 500 feet of project construction, the Biological Monitor shall report the nest(s) to the District. After initial identification of the nest, the biological monitor shall not approach within 25 feet of an active nest; nest monitoring shall occur with binoculars. Signage and SHA fencing shall be installed to deter people from entering any area with an active nest. Work within 500 feet of the active nest shall be halted. With USFWS (Ridgway's rail [light-footed], coastal California gnatcatcher, California least tern, or western snowy plover) or CDFW (Belding's savannah sparrow) approval, the buffer may be reduced to less than 500 feet based on species sensitivity, topography, noise/duration of construction activities, etc., to protect active nests. The District shall develop an Avoidance and Minimization Plan, including determining whether the existing berm provides adequate protection for the nest to reduce or eliminate the buffer and measures to minimize construction noise at the nest site if not (such as, installation of noise barriers and/or modification in quantity, location or type of equipment), a monitoring plan, and an adaptive management strategy and/or contingency options.

c) Preconstruction surveys will also be conducted for federally and state listed species when suitable habitat is proposed for removal outside of the breeding season. Should federally and state listed avian species be detected, vegetation removal shall be postponed until the species has left the work area, unless the necessary Incidental Take Permits have been issued. In the latter case, clearing would progress in compliance with all required Conservations Measures and Terms and Conditions.

MM BR-5 **Preconstruction Surveys for Burrowing Owl.** A preconstruction survey shall be conducted by a qualified biologist in accordance with the survey requirements detailed in the California Department of Fish and Game's March 7, 2012, Staff Report on Burrowing Owl no less than 14 days before initial ground-disturbing activities

(California Department of Fish and Game 2012). Any active burrow found during preconstruction survey efforts shall be mapped and provided to the construction foreman. If no active burrows are found, no further mitigation shall be required.

A construction avoidance buffer shall be placed around occupied burrows. Recommended buffer distances are based on time of year and level of disturbance:

- April 1 – August 15: Low disturbance 656 feet, medium and high disturbance 1,640 feet
- August 16 – October 15: Low and medium disturbance 656 feet, high disturbance 1,640 feet
- October 16 – March 31: Low disturbance 164 feet, medium disturbance 328 feet, high disturbance 1,640 feet

If avoidance of impacts to occupied burrows is not practicable, the District shall create a Burrow Exclusion Plan that will be approved by CDFW. The plan shall follow Appendix E of the 2012 CDFW Burrowing Owl Mitigation Staff Report. Relocation shall be implemented only during the nonbreeding season by a qualified biologist. Owls shall be excluded from burrows in the immediate impact zone by installing one-way doors in burrow entrances. One-way doors shall be left in place for 48 hours to ensure owls have left the burrow before excavation.

MM BR-6 **Implement Long-Term Operations Maintenance and Management Plan.** A Long-Term Management/Operations and Maintenance Plan shall be prepared and implemented. The plan shall address maintenance activities, associated minimization measures, monitoring requirements and adaptive management strategies to be implemented after the site has met its 5th-year performance criteria and been accepted by the agencies. The Long Term Operations and Maintenance Management Plan shall include measures to minimize the potential introduction of invasive species during maintenance activities including, but not limited to: washing all equipment prior to entering the site from another location, removing invasive species before seeding to the maximum extent feasible, collecting all plant material removed during maintenance securely, such as in a burlap bag, and removing from the site. The plan shall prohibit the use of pesticides or herbicides with potential toxicity to aquatic or terrestrial wildlife species. Maintenance and trash/debris removal shall be conducted outside of the bird nesting season (February 1 – September 15) to the maximum extent feasible. If maintenance must occur during the nesting season, a qualified biologist shall conduct preconstruction nesting bird surveys and direct maintenance staff to areas not occupied by nesting birds. The plan shall include contingency erosion control BMPs should they be needed following especially large storms. Should supplemental planting be required, all container stock shall be certified pest free and inspected for pests prior to being unloaded on site. At a minimum, the plan shall include biannual inspections for invasive species cover, fence inspection, vandalism, and illegal dumping. The plan shall include long-term performance criteria to include, at a minimum, no perennial invasive species (ranked by California Invasive Plant Council as moderate to high) and less than 5 percent annual invasive species relative cover. An assessment of habitat function shall be conducted every 10 years. At a minimum, the assessment shall include a wildlife use assessment and an assessment of nonnative vegetative

cover. The Final Monitoring Report upon which all signatory agencies accept the mitigation site as complete shall serve as the baseline conditions for long-term monitoring. Contingency measures such as supplemental weeding, planting, grading, and erosion control shall be included in the plan. A threshold for implementing contingency measures, such as assessment results with no more than -10 percent deviation from baseline shall be included.

MM BR-7 **Implement Biological Resource Protection Measures During Operations for Parcels A, B, and C.** To avoid or minimize potential operations impacts on biological resources resulting from development of Parcels A, B, and C, the following measures shall be implemented, as applicable based on project-specific designs:

a) Landscape plans shall not include the use of plant species considered invasive by California Invasive Plant Council. All plant species specified in the landscape plans shall be certified free of pests, including plant pathogens.

b) Light glare shields shall be included in the project design to reduce the extent of illumination into sensitive habitats. If lighting is located near surface waters, it shall be shielded such that it does not shine directly into the water.

c) Masonry block walls or equivalent shall be erected around the perimeter of the project area to prevent domestic pets or other animals that could harm biological resources in adjacent habitats.

d) The commercial development project proponent shall ensure operation noise levels are kept below 60 dBA Leq at the margin of the nearest occupied breeding habitat for state or federally listed species.

e) The commercial development project proponent shall design the project such than no stormwater runoff shall enter adjacent native habitat areas. All stormwater runoff shall be channeled into storm drains.

MM BR-8 **Wildlife Surveys for Parcels A, B, and C.** The District (or project proponent) shall conduct nesting season (February 1 – September 15) surveys on Parcel A for Belding's savannah sparrow, Ridgway's rail (light-footed), western snowy plover, California least tern, and burrowing owl; on Parcel B for Belding's savannah sparrow, Ridgway's rail light-footed, and burrowing owl; and on Parcel C for burrowing owl prior to project initiation. If no special status wildlife species are present, no further mitigation shall be required.

Should occupied Belding's savannah sparrow, Ridgway's rail, western snowy plover, or California least tern habitat be proposed for permanent impact, the District shall provide compensatory mitigation as detailed in MM BR-10. See MM BR-5 for details regarding burrowing owl monitoring and mitigation.

MM BR-10 **Compensatory Mitigation for Impacts on Special Status Biological Resources.**

a) Should the project result in a loss of WOUS, CCC wetland, or CDFW regulated streambed, the District shall provide compensatory mitigation for the loss of regulated waters or streambed at a minimum 1:1 ratio. Compensatory mitigation shall consist of establishment to ensure no loss of aquatic function.

The compensatory mitigation ratios provided herein for direct impacts on regulated aquatic resources represent the minimum required to ensure no net loss of aquatic

function following project implementation. Final compensatory mitigation programs will be determined in consultation with ACOE, RWQCB, CCC and/or CDFW during their respective permitting processes.

b) Should the project result in a loss of Menzie's goldenbush scrub, or suitable habitat for Belding's savannah sparrow, Ridgway's rail (light-footed), California gnatcatcher, western snowy plover or California least tern, the District shall provide establishment within the Bank Site at a minimum 1:1 mitigation ratio to ensure no net loss of Menzie's goldenbush scrub or habitat for these species.

c) Should the Bank Site not provide sufficient habitat to provide a minimum 1:1 mitigation ratio for net loss of habitat for any of these species, the balance of the mitigation shall be provided through a combination of establishment, enhancement or preservation and long term management to provide for no net loss of habitat function.

The compensatory mitigation ratios provided herein for loss of the above habitats represent the minimum required to ensure no net loss habitat following project completion. Final compensatory mitigation programs will be determined in consultation with USFWS and CDFW as applicable.

MM HY-1 **Bridge and Channel Scour Monitoring and Maintenance.** See Section 5.8.1 for details.

5.2.2 Riparian Habitat or Other Sensitive Natural Communities

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on riparian habitat or other sensitive natural communities for both the wetland mitigation bank and the PMPA for Parcels A, B, and C. While there are no vegetation communities with a sensitive state rank or USFWS-designated critical habitat occur within the project study area, several habitats within the project site have potential to support special status species. Additionally, subtidal open water habitat located at the berm breach site is regulated as coastal wetland by CCC and designated essential fish habitat by National Marine Fisheries Service. The project has the potential to directly or indirectly impact sensitive natural communities. Detailed information and analysis regarding this potential significant impact are provided in Section 3.3, Biological Resources, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the wetland mitigation bank's potentially significant impact on riparian habitat or other sensitive natural communities would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-3, MM BR-9, MM BR-10, and MM HY-1. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the potentially significant impact on riparian habitat or other sensitive natural communities from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM BR-1 and MM BR-7.

Implementation of MM BR-1 would require implementation of biological resource protection measures during construction, which would reduce impacts on special status plants and wildlife by requiring a range of measures, such as WEAP training to ensure contractors are made aware of and implement all compliance requirements; installing temporary fencing to minimize the potential for unintentional incursions into adjacent habitat; and implementing BMPs to avoid introducing pollutants to adjacent ecosystems. Implementation of MM BR-3 would require restoration of temporary impacts, which would minimize long-term impacts on special status biological resources from temporary construction activities as well as minimizing potential indirect impacts from degraded habitat adjacent to suitable habitat. Implementation of MM BR-7 would require biological resource protection measures to be implemented during operations to minimize and avoid potential indirect impacts from operations on adjacent special status habitats and species. Implementation of MM BR-9 would require preconstruction eelgrass surveys to determine presence, and if eelgrass is present, then mitigation as required by the California Eelgrass Mitigation Policy would occur to ensure no long-term net loss if the project results in the loss of eelgrass habitat. Implementation of MM BR-10 would require compensatory mitigation for impacts on WOUS, CCC wetlands, and CDFW-regulated streambed, which would ensure no loss of aquatic function. Implementation of MM HY-1 would require bridge and channel scour monitoring and maintenance. In particular the program would include habitat monitoring downstream of the project site where long-term scour may alter the channel width during operations; therefore, should loss of special status habitat occur, compensatory mitigation would be required.

MM BR-1 **Implement Biological Resource Protection Measures During Construction.**

MM BR-3 **Restoration of Temporary Impacts.**

MM BR-7 **Implement Biological Resource Protection Measures During Operations for Parcels A, B, and C.**

MM BR-9 **Berm Breach Site – Pre- and Post-Construction Eelgrass Surveys.** Eelgrass (*Zostera* spp.) surveys, consistent with the requirements outlined in the 2014 California Eelgrass Mitigation Policy, shall be conducted to detect any impacts on eelgrass as a result of breaching the berm to open the Bank Site to tidal influence. Surveys shall be conducted prior to breaching the berm. If the pre-construction survey shows no eelgrass is present, no post construction survey and no further surveys or mitigation shall be required. If eelgrass is present a post-construction survey shall be conducted within 30 days following completion of breach construction. If impacts on eelgrass from implementation of the proposed project are identified, mitigation for eelgrass impacts shall be at a ratio of no less than 1.2:1, as required by the California Eelgrass Mitigation Policy. Mitigation shall commence within 135 days of any noted impacts on eelgrass, such that mitigation commences within the same eelgrass growing season that impacts occur if feasible.

MM BR-10 **Compensatory Mitigation for Impacts on Special Status Biological Resources.**

MM HY-1 **Bridge and Channel Scour Monitoring and Maintenance.** See Section 5.8.1 for details.

5.2.3 State or Federally Protected Wetlands

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on state or federally protected wetlands for both the wetland mitigation bank and the PMPA for Parcels A, B, and C. WOUS, waters of the state, CDFW-regulated streambeds, or CCC wetlands occur within the berm breach site, Parcel A, and Parcel C. Direct or indirect impacts on WOUS, CDFW-regulated streambed, or CCC wetland would be significant. Detailed information and analysis regarding this potential significant impact are provided in Section 3.3, Biological Resources, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the wetland mitigation bank's potentially significant impact on federally or state-protected wetlands would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-3, MM BR-6, MM BR-10, and MM HY-1. Based on the analysis provided in Section 3.3, Biological Resources, of the Final EIR, the potentially significant impact on federally or state-protected wetlands from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-3, MM BR-7, and MM BR-10.

Implementation of MM BR-1 would require implementation of biological resource protection measures during construction, which would reduce impacts on special status plants and wildlife by requiring a range of measures, such as WEAP training to ensure contractors are made aware of and implement all compliance requirements; installing temporary fencing to minimize the potential for unintentional incursions into adjacent habitat; and implementing BMPs to avoid introducing pollutants to adjacent ecosystems. Implementation of MM BR-3 would require restoration of temporary impacts, which would minimize degradation of water quality that could result from erosion of exposed soil surfaces, as well as minimizing potential indirect impacts from degraded habitat adjacent to WOUS, CDFW-regulated streambed, or CCC wetland, such as the introduction of invasive species. Implementation of MM BR-6 would require a long-term operations maintenance and management plan to minimize the introduction of invasive species, ensure BMPs are implemented during maintenance and monitoring visits so that active nests and special status species would not be disturbed, and to establish long-term performance standards and monitoring methodology to ensure long-term function of the wetland mitigation bank, as necessary, to sustain the habitat described herein. Implementation of MM BR-7 would require biological resource protection measures to be implemented during operations. Implementation of MM BR-10 would require compensatory mitigation for impacts on WOUS, CCC wetlands, and CDFW-regulated streambed. Implementation of MM HY-1 would require a Bridge and Channel Scour Monitoring and Maintenance Program. In particular, the program would include habitat monitoring downstream of the project site where long-term scour may alter the channel width during operations; therefore, should loss of special status habitat occur, compensatory mitigation would be required.

MM BR-1 Implement Biological Resource Protection Measures During Construction.

MM BR-3 Restoration of Temporary Impacts.

MM BR-6 Implement Long-Term Operations Maintenance and Management Plan.

MM BR-7 **Implement Biological Resource Protection Measures During Operations for Parcels A, B, And C.**

MM BR-10 **Compensatory Mitigation for Impacts on Special Status Biological Resources.**

MM HY-1 **Bridge and Channel Scour Monitoring and Maintenance.** See Section 5.8.1 for details.

5.3 Cultural Resources

5.3.1 Historical Resources

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on historical resources for both the wetland mitigation bank and the PMPA for Parcels A, B, and C in that archaeological sites CA-SDI-4360 and CA-SDI-19712 and the Western Salt Company Salt Works may be destroyed or altered. These resources are considered a historic resource under CEQA, and destruction or alteration of these resources is considered a significant impact. Detailed information and analysis regarding this potential significant impact are provided in Section 3.4, Cultural Resources, in the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the wetland mitigation bank's potentially significant impact on historical resources would be mitigated to a level less than significant with the implementation of MM CR-1 and MM CR-2. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the potentially significant impact on historical resources from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM CR-1. Implementation of MM CR-1 would reduce impacts on archaeological sites CA-SDI-4360 and CA-SDI-19712 from destruction or alteration of potentially significant subsurface archaeological deposits through the recovery of scientifically consequential information from and about historical resources. Implementation of MM CR-2 would reduce impacts on the Western Salt Company Salt Works historic resource by requiring documentation of Pond 20 and development of educational materials prior to construction.

MM CR-1 **Preparation of a Cultural Resource Mitigation and Management Plan.** Prior to commencement of any ground-disturbing activities but no sooner than 90 percent design completion, the District shall contract a qualified archaeologist who is a member of the Register of Professional Archaeologists and meets the Secretary of Interior's (SOI) Professional Qualification Standards for Archaeology (36 Code of Federal Regulations 61, Appendix A) to develop a Cultural Resource Mitigation and Monitoring Plan (CRMMP).

The CRMMP shall serve to guide the identification, evaluation, and data recovery of all known and unknown archaeological historical resources in the project site. The overall performance goals of the three phases of archaeological activities to be outlined in the CRMMP are:

a) ***Identification:*** Archaeological testing, guided by an explicit sampling strategy, shall be carried out to identify any intact buried archaeological deposits within the horizontal and vertical extents of project-related disturbance.

b) ***Evaluation:*** Any intact buried archaeological deposits identified shall be evaluated according to specific thresholds of significance for their potential to yield scientifically consequential information.

c) ***Data Recovery:*** Any deposits determined to contain scientifically consequential information shall be analyzed and documented following defined methods and objectives in order to recover and preserve the scientifically consequential information they contain.

The CRMMP shall be consistent with the SOI's Standards and Guidelines for Archaeology and Historic Preservation (48 *Federal Register* [FR] 44716–44740), the California Office of Historic Preservation's Archaeological Resource Management Reports: Recommended Contents and Format (1990), Guidelines for Archaeological Research Designs (1991), and Guidelines for the Curation of Archaeological Collections (1993), and the Advisory Council on Historic Preservation's Treatment of Archaeological Properties: A Handbook (1980).

The CRMMP shall include, at a minimum, the following items:

- ***Historic Context:*** Based on the relevant sections of the *Cultural Resource Technical Report*, the District's qualified archaeologist shall prepare a comprehensive historic context for the study area and the surrounding region. The historic context shall conform with guidance from the SOI's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44718-44719):
    - Identify the concept, time period, and geographical limits for the historic context
    - Assemble the existing information about the historic context
    - Synthesize information
    - Define property types
        - Identify property types
        - Characterize the locational patterns of property types
        - Characterize the current condition of property types
    - Identify information needs

Specific research topics for the historic context should include attempts to identify further evidence related to the association of CA-SDI-19712 with the Kumeyaay village of La Punta and the Kumeyaay revolt of 1775, as well as a synthesis of comparative regional data from coastal habitation sites dating to the San Dieguito and La Jolla periods to aid in contextualizing the prehistoric occupation of CA-SDI-4360.

- ***Research Design:*** The CRMMP shall include an explicit statement of theoretical and methodological approaches to be followed in the identification, evaluation, and data recovery of archaeological resources. Following the Office of Historic

Preservation's *Archaeological Resource Management Reports: Recommended Contents and Format* (1990), appropriate research designs shall:

A. Discuss the theoretical basis of the proposed research;

B. Summarize previous research;

C. Present testable hypotheses or state the goals of the research; and

D. Identify the test implications of the hypotheses.

Pursuant to the SOI's Standards for Archaeological Documentation (48 FR 44734–44737), the research design shall draw upon the historic context to identify:

- Evaluated significance of the properties to be studied;
- Research problems or other issues relevant to the significance of the property;
- Prior research on the topic and property type; and how the proposed documentation objectives are related to previous research and existing knowledge;
- The amount and kinds of information (data) required to address the documentation objectives and to make reliable statements including at what point information is redundant and documentation efforts have reached a point of diminishing returns; and
- Methods to be used to find the information.

Pursuant to the SOI's Standards, the research design shall explicitly identify the archaeological data classes that are required to address the specified documentation objectives. Consistent with the information needs identified in the historic context, the research design shall provide thresholds for determining the point at which further data recovery and documentation fail to improve the usefulness of the archeological information being recovered (48 FR 44735).

- ***Methods:*** The CRMMP shall include specific field and laboratory methodologies for the identification, evaluation, and data recovery of archaeological resources. Because all archaeological excavation is by nature destructive, field methods shall be developed once project design has reached 90 percent completion and shall be reviewed upon submittal of final design, in order to avoid unnecessary impacts on archaeological resources in areas that would not be affected by the project, per CEQA Guidelines Section 15162.4(b)(3).
  - *Identification and Evaluation:* The final grading and construction plans shall be reviewed to determine the precise horizontal and vertical extents of ground-disturbing activities. Based on this information, the District's qualified archaeologist shall develop an archaeological testing and evaluation plan with the stated objective of identifying any intact buried archaeological deposits within the project's limits of disturbance and determining their significance in accordance with the California Register of Historical Resources criteria (14 CCR 4852[b]). Per the SOI's Standards and Guidelines for Identification and Evaluation (48 FR 44720–44726), the

testing plan should include methods appropriate for the environmental and cultural context of the area under study, as well as expected results and reasons for those expectations. Identification and evaluation Methods for identification and evaluation shall include the following:

- Mapping and site gridding;
- Full-coverage site survey with point-plotting of surface artifacts;
- Placement of shovel test pits, auger units, test units, or mechanically excavated trenches, guided by an explicit sampling strategy, not to exceed the extents of proposed disturbance in any given location;
- Recording procedures for documenting the results of the excavations, including soil matrix descriptions, artifact types and classifications;
- Procedures for in-field recordation of artifacts and features based on type, including prescriptive standards for measurement, description, documentation of stratigraphic context, and photographic documentation;
- Specific methodologies and thresholds for determining the integrity of deposits and expected feature types (e.g., shell midden deposits, hearths, occupational deposits) and their potential to yield scientifically consequential data;
- Explicit methods for estimating the spatial extent of intact buried deposits identified based on the results of test excavations; and
- An artifact disposition policy, stating that only artifacts associated with features and deposits determined to be significant shall be collected for laboratory analysis. All other artifacts shall be recorded in the field and reburied in the unit where they were recovered.

- *Data Recovery:* The CRMMP shall include a treatment plan for recovering and preserving scientifically consequential data from intact archaeological deposits identified during the testing and evaluation phase that are determined to be significant according to the criteria set forth in the research design. Following the guidelines provided in the Advisory Council on Historic Preservation's *Treatment of Archaeological Properties: A Handbook* (1980), the data recovery plan shall employ methods that shall ensure full, clear, and accurate descriptions of all field operations and observations. Excavation techniques, recording methods, stratigraphic and associational relationships, environmental relationships, and analytical techniques shall be described, insofar as is feasible, in such a way as to allow future researchers to reconstruct what was done, what was observed, and why. To the extent feasible, the methods shall take into account the possibility that future researchers would need to use the recovered data to address problems not recognized at the time the data were recovered. Per the SOI's Standards and Guidelines for Archaeological Documentation (48 FR 44734–44737), the archaeological data recovery plan shall include an explicit statement of objectives and methods that responds to needs identified in the research design. The methods and techniques chosen for archeological

documentation shall be the most effective, least destructive, most efficient, and economical means of obtaining the needed information.

The data recovery plan shall include the following:

- Explicit descriptive statements of and justification for field study techniques.
- A discussion of expected feature types and associated techniques for excavation, recordation, and analysis.
- Specific thresholds for determining the level of effort necessary to achieve successful data recovery, based on the estimated spatial extent of intact buried deposits identified in the previous phase. Thresholds shall be tailored to specific deposit and feature types. For instance, the recovery of consequential archaeological data from a small hearth may be considered successful upon excavation of half of the feature by volume. Larger and more complex deposits and features may require an explicit sampling strategy. In all cases, recovery thresholds shall be formulated based on the data needs identified in the research design and adequate justification shall be provided.
- Recording procedures for documenting the results of the excavations, including soil matrix descriptions, artifact types and classifications.
- Procedures for in-field recordation of artifacts and features based on type, including prescriptive standards for measurement, description, documentation of stratigraphic context, and photographic documentation.
- Procedures for recovering samples of soil matrix for specialized analysis (e.g., pollen analysis, phytolith analysis, and flotation for macro-botanical remains and fish scales and otoliths), samples of organic materials for radiocarbon dating, as well as other elemental or chemical analyses.
- Laboratory procedures for the initial processing and subsequent analysis of recovered materials, based on the objectives identified in the research design.
- An artifact disposition policy, providing criteria and procedures for determining the disposition of artifacts once laboratory analysis is concluded. Artifact curation and discard principles shall be organized under three considerations: research values, practicality, and education potential. Artifacts that meet the discard criteria (e.g., lack of long-term research value, poor archaeological context, poor condition, lack of education potential) shall be reburied at a specified location in the project site.

All archaeological units for identification, evaluation, and data recovery shall be excavated in 10-centimeter levels. Sediments removed shall be dry-sifted through 1/8-inch mesh screens. Screening shall be conducted over plastic sheeting (tarps) to reduce environmental damage, prevent contamination of the site’s surface deposit, and expedite the backfilling process. Testing data, which

includes depth, soil descriptions, soil type and consistency, stratigraphy, and artifact type and material, shall be recorded on standardized forms. Unit form templates shall be included in the CRMMP.

Unit locations, features, surface finds, and other spatial data shall be controlled with reference to the Universal Transverse Mercator grid superimposed on aerial photographs rendered by a geographical information system. Data points to be mapped shall be collected with a global positioning system unit with submeter accuracy.

Artifacts from each field excavation provenience shall be measured, photographed, and recorded on the standardized unit forms. If paleontological resources are encountered, they shall be noted and mapped, but shall not be part of the analysis unless it is clear they are associated with a cultural context.

All artifacts from surface collections and excavations shall be collected, with the exception of fire-affected rock, which shall be counted, weighed, and reburied in the excavation unit.

All collected artifacts shall be analyzed using the lab methods outlined in the CRMMP. Native American cultural materials shall be classified into one of 12 categories: core, debitage, flaked-stone tool, cobble/percussion tool, ground stone, ceramic, modified bone, modified shell, and miscellaneous items. Recovered ecofacts (unmodified bone and shell specimens) shall be cataloged by faunal class. Historical items shall be identified as specifically as possible, and study beyond simple identification would not be undertaken unless particular items appear to date to the ethnohistoric or Early Historic period.

- ***Archaeological Reporting:*** The CRMMP shall set forth the requirements for reporting. All reports shall be prepared in accordance with the guidelines established by the Secretary of the Interior's Standards for Archaeological Documentation (48 FR 44734–44737) and the Office of Historic Preservation's *Archaeological Resource Management Reports: Recommended Contents and Format* (1990) and shall be submitted to the District and the South Coast Information Center.
    - *Testing, Evaluation, and Data Recovery Reports:* Upon completion of each phase of archaeological testing evaluation, and data recovery, the District's qualified archaeologist shall document the results in a report. These documents shall summarize the testing and evaluation efforts and data recovery results by each area or feature that undergoes data recovery.
    - *Archaeological Monitoring Report:* Upon completion of grading and excavation activities, the District's qualified archaeologist shall prepare a written report detailing monitoring activities performed at archaeological sites CA-SDI-4360 and CA-SDI-19712 and at any other previously undiscovered archaeological site, including the methodology and results of off-site screening of sediment, in the event it is necessary. The report shall include the results of the fieldwork and all appropriate laboratory and analytical studies that were performed in conjunction with excavations.

- ***Curation of Archaeological Collections:*** Archaeological collections comprise several components, including artifacts, environmental and dating samples, field documentation, laboratory documentation, photographic records, related historical documents, and reports. The District's qualified archaeologist shall prepare a plan for curating all artifacts, notes, photographs, and materials recovered during identification, evaluation, data recovery, and monitoring. Artifacts to be curated shall include all those that were not discarded pursuant to the artifact disposition policy. The curation plan shall be consistent with the Office of Historic Preservation's *Guidelines for the Curation of Archaeological Collections* (1993). Curation of artifacts and materials recovered from archaeological investigations requires a formal agreement between the District and a certified curation facility, which shall be initiated prior to undertaking archaeological fieldwork.

  All materials that are to be curated shall be placed in archival quality, long-term storage packing materials, including acid-free, lignin-free boxes and inert polyethylene bags. The District shall also curate records prepared or assembled in connection with the project, including field notes, drawings, photographs, maps, special studies, and final reports. After completion of laboratory analyses and the production of the final reports, the collection shall be transported to the designated curation facility where it shall be available for study by researchers.

- ***Personnel and Qualifications:*** The CRMMP shall include a discussion of roles and required qualifications for personnel conducting archaeological testing, evaluation, data recovery, and monitoring. All qualifications shall be verified by the District prior to conducting work for the project. All procedures required by this mitigation measure shall be carried out by, or under the direct supervision of, persons who meet, at a minimum, the SOI's Professional Qualifications Standards for Archaeology (48 FR 44739) and are members of the Register of Professional Archaeologists.

  The CRMMP shall outline the requirements and responsibilities for each role, including identifying which personnel shall have the authority to issue stop-work orders during construction and who is responsible for initiating notification procedures in the event of an unanticipated discovery.

- ***Measures for Protecting Cultural Resources*:** The CRMMP shall include the following measures designed to minimize harm to portions of archaeological sites both within and outside the project's limits of disturbance during construction:

  - *WEAP Training:* The District's qualified archaeologist shall prepare a cultural resource-focused WEAP training that shall be given to all ground-disturbing construction personnel to minimize harm to known and unknown archaeological resources. Topics to be included for WEAP training shall be identified in the CRMMP. All site workers shall be required to complete the WEAP training with a focus on cultural resources, including education on the consequences of unauthorized collection of artifacts and a review of discovery protocol. The WEAP training shall also explain the requirements

of mitigation measures to be implemented during ground-disturbing activities.

- *Delineation of Work Limits*: Prior to construction, the project work limits in the vicinity of previously recorded resources CA-SDI-4360 and CA-SDI-19712 shall be delineated with environmentally sensitive area fencing in order to protect these areas from unnecessary impacts.
- *Archaeological Monitoring:* The District shall retain archaeological monitors to observe all project-related ground-disturbing activities. The CRMMP shall specify monitoring locations and protocols based on proposed construction activities and the results of archaeological identification, evaluation, and data recovery. In areas where archaeological deposits were not identified or were determined to be disturbed, a single monitor shall be able to observe two or more construction locations or activities within a reasonable walking distance of each other. In areas where intact archaeological deposits were identified, even if they were subject to data recovery, one monitor per location or activity shall be required.

  The monitors shall be supervised by a qualified archaeologist who meets the SOI's Professional Qualification Standards for Archaeology (48 FR 44739) and has regional experience in prehistoric archaeology. The CRMMP shall rely on Occupational Safety and Health Administration-qualified determinations in regard to the safety of monitoring locations.

  The CRMMP shall include a plan for sampling and off-site visual observation and screening of sediment removed during excavation in the event that on-site monitoring of excavations is unfeasible due to safety considerations. Based on the research design, an appropriate sampling strategy shall be laid out, specifying the relative proportion of sediment to be sampled, protocols for coordinating with construction crews, location where spoils shall be deposited, and procedures for observation, screening, and documentation. In determining sampling protocols, the plan shall consider the archaeological sensitivity of the location from which the sediment has been removed. In areas where archaeological deposits were not identified or were determined to be disturbed, visual observation of a small sample of the spoils (less than 5 percent) shall be required. In areas where intact archaeological deposits were identified, even if they were subject to data recovery, visual observation of a larger sample of the spoils (approximately 20 percent) and screening of a subset of this sample (approximately 5 percent) shall be required.
- *Unanticipated Discovery Protocol*: As required by Section 15064.5(f) of the CEQA Guidelines, the CRMMP shall include provisions for historical or unique archaeological resources accidentally discovered during construction. If cultural materials are discovered during construction, all ground disturbance within a 100-foot-wide buffer of the immediate discovery area shall temporarily cease until the District's qualified archaeologist can assess the nature and significance of the find. If the feature or deposit appears to be intact, it shall be evaluated according to the procedures detailed in the archaeological testing and evaluation plan and the District

shall be immediately notified. If the feature or deposit is determined to be significant, the procedures outlined in the data recovery plan shall be implemented.

- ***Native American Cultural Patrimony:*** In the event of the discovery, during any stage of archaeological research or construction, of objects or features with cultural value to descendant communities, including Native American burial remains, associated and unassociated funerary objects, sacred objects, and other cultural patrimony, all ground-disturbing activities in the vicinity of the discovery shall cease immediately. In case isolated objects are encountered in disturbed stratigraphic contexts, the Native American monitor shall be consulted to ensure appropriate treatment or disposition of the objects (per MM CR-4). In case intact deposits are encountered that may reasonably indicate the presence of burial features or human remains, a 100-foot-wide buffer shall be established around the find to secure it from further disturbance and all applicable protocols shall be followed in accordance with MM CR-3.

MM CR-2 **Documentation of Pond 20 to Historic American Landscape Survey Standards and Development of Educational Display.** Prior to commencement of any ground-disturbing activities within the Wetland Mitigation Bank Parcel, the District shall supplement the existing Historic American Landscapes Survey documentation of the Western Salt Company Salt Works District (USFWS 2001) with additional research, field recordation, and photographic documentation of Pond 20A to Historic American Landscapes Survey standards. Further documentation of Pond 20A shall include: (1) large-format photographic recordation of views of the setting and character-defining features of the portion of Pond 20A within the project site, including levees, channels, secondary berms delimiting individual ponds, and wooden post-and-plank features; (2) preparation of a detailed plan of the historical features of Pond 20A based on field recordation; (3) a detailed historical narrative report; and (4) compilation of historical research, photographs, and maps. The documentation shall be completed by a qualified historian or architectural historian who meets the Secretary of the Interior's Professional Qualification Standards for History or Architectural History. The archival documentation shall be donated to a suitable repository, such as the San Diego History Center, and copies shall be provided to local historical organizations, such as the South Bay Historical Society. Because creation of the Wetland Mitigation Bank Parcel would alter or destroy some of the existing features of Pond 20A that are representative of past salt works activities (while retaining others, such as the surrounding berm), the District shall design, fabricate, and install an educational display based on archival documentation. The educational display shall include two interpretive panels with historical photographs, maps, and narrative text demonstrating the history of the salt pond and its past use, to be placed in public view at suitable locations at the southern (along Palm Avenue) and western (adjacent to the 13th Street parking lot) boundaries of the project site. The panels shall include information directing viewers to a website, to be designed, prepared, and maintained by the District, providing further historical narratives, photographs, and maps based on archival documentation.

5.3.2 Archaeological Resources

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on archaeological resources for both the wetland mitigation bank and the PMPA for Parcels A, B, and C in that archaeological sites CA-SDI-4360 and CA-SDI-19712 may be destroyed or altered. These resources are considered an archaeological resource under CEQA, and destruction or alteration of these resources is considered a significant impact. Detailed information and analysis regarding this potential significant impact are provided in Section 3.4, Cultural Resources, in the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the wetland mitigation bank's potentially significant impact on archaeological resources would be mitigated to a level less than significant with the implementation of MM CR-1. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the potentially significant impact on archaeological resources from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM CR-1. Implementation of MM CR-1 would reduce impacts on archaeological sites CA-SDI-4360 and CA-SDI-19712 from destruction or alteration of potentially significant subsurface archaeological deposits through the recovery of scientifically consequential information from and about historical resources.

MM CR-1 Preparation of a Cultural Resource Mitigation and Management Plan.

5.3.3 Human Remains

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on human remains for both the wetland mitigation bank and the PMPA for Parcels A, B, and C in human remains have been recorded adjacent to the project site. If human remains are disturbed this is considered a significant impact. Detailed information and analysis regarding this potential significant impact are provided in Section 3.4, Cultural Resources, in the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the wetland mitigation bank's potentially significant impact on human remains would be mitigated to a level less than significant with the implementation of MM CR-3. Based on the analysis provided in Section 3.4, Cultural Resources, in the Final EIR, the potentially significant impact on human remains from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM CR-3. Implementation of MM CR-3 would reduce impacts from disturbing human remains by identifying procedures if an inadvertent discovery is made during ground disturbing activities.

MM CR-3 **Inadvertent Discovery of Human Remains.** If any previously unrecorded human remains are inadvertently discovered during archaeological investigations or construction, all ground-disturbing activities in the vicinity of the discovery shall cease immediately and a 100-foot-wide buffer shall be established around it to secure it from further disturbance. California State law (Health and Safety Code Section 7050.5; Public Resources Code Sections 5097.94, 5097.98 and 5097.99) shall be followed. This law specifies that work shall stop immediately in any areas where human remains or suspected human remains are encountered. The District and the county coroner shall be immediately notified of the discovery. The coroner has 2 working days to examine the remains after being notified by the lead agency. If the remains are determined to be Native American, the coroner has 24 hours to notify Native American Heritage Commission, who shall determine the most likely descendant. The Native American Heritage Commission shall immediately notify the identified most likely descendant, and the most likely descendant has 48 hours to make recommendations to the landowner or representative for the respectful treatment or disposition of the remains and grave goods. If the most likely descendant does not make recommendations within 48 hours, the area of the property shall be secured from further disturbance. If no recommendation is given, the District or its authorized representative shall re-inter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.

5.4 Energy

5.4.1 Conflict with State or Local Plan for Energy Efficiency

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on energy for the program-level PMPA for Parcels A, B, and C in that future commercial development would conflict with the District's Climate Action Plan and other applicable state renewable energy and energy efficiency plans. Detailed information and analysis regarding this potential significant impact are provided in Section 3.5, Energy, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.5, Energy, in the Final EIR, the potentially significant impact on energy from the implementation of the PMPA on Parcel A, B, and C would be mitigated to a level less than significant with implementation of MM GHG-1 and MM TRAN-1. Implementation of MM GHG-1 would require compliance with the District's Climate Action Plan and other applicable state and local renewable energy and energy efficiency plans through implementation of energy conservation measures. Implementation of MM TRAN-1, would require a traffic demand management plan that promotes ridesharing and vanpooling and provides subsidies for transit passes to reduce worker trips and parking demand, which would be consistent with the District's Climate Action Plan

MM GHG-1 **Greenhouse Gas Emission Reducing Design.** See Section 5.6.1 for details.

MM TRAN-1 Implement Transportation Demand Management Measures. See Section 5.10.1 for details.

5.5 Geology and Soils

5.5.1 Paleontological Resources

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on paleontological resources for the program-level PMPA for Parcels A, B, and C in that future commercial development may directly or indirectly destroy a paleontological resource. Detailed information and analysis regarding this potential significant impact are provided in Section 3.6, Geology and Soils, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.6, Geology and Soils, in the Final EIR, the potentially significant impact on paleontological resources from the implementation of the PMPA on Parcel A, B, and C would be mitigated to a level less than significant with the implementation of MM GEO-1. Implementation of MM GEO-1 would reduce the potential to directly or indirectly destroy a paleontological resource by requiring a qualified paleontologist monitor all excavations or grading below 10 feet. If fossils are discovered, the paleontologist would recover the fossils to be preserved and avoid destruction.

MM GEO-1 Paleontological Monitoring in Areas of Sensitivity. To reduce potential impacts on paleontological resources, all proposed grading and excavating to depths greater than 10 feet shall be monitored by a qualified paleontologist(s), approved by the District's Planning Department, paid for by the project proponent. Specifically, the project proponent and/or its construction supervisor shall ensure the following measures are implemented.

- A qualified Paleontologist shall attend the preconstruction meeting to consult with the grading and excavation contractors concerning excavation schedules, paleontological field techniques, and safety issues. A qualified Paleontologist is defined as an individual with a M.S. or Ph.D. in paleontology or geology who is familiar with paleontological procedures and techniques, who is knowledgeable in the geology and paleontology of San Diego County, and who has worked as a paleontological mitigation project supervisor in the county for at least 1 year.
- A paleontological monitor shall be on site on a full-time basis during excavation and pile driving activities that occur 10 feet or more below ground surface, to inspect exposures for contained fossils. The paleontological monitor shall work under the direction of the qualified Paleontologist. A paleontological monitor is defined as an individual selected by the qualified Paleontologist who has experience in the collection and salvage of fossil materials.
- If fossils are discovered, the Paleontologist shall recover them and temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner.

- Fossil remains collected during the monitoring and salvage portion of the mitigation program shall be cleaned, repaired, sorted, and catalogued.
- Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall be deposited (as a donation) in a scientific institution with permanent paleontological collections, such as the San Diego Natural History Museum. Donation of the fossils shall be accompanied by financial support for initial specimen storage, paid for by the project proponent.
- Within 30 days after the completion of an excavation and pile-driving activities, a final data recovery report shall be completed by the qualified Paleontologist that outlines the results of the mitigation program. This report shall include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils.

5.6 Greenhouse Gas Emissions

5.6.1 Generate Greenhouse Gas Emissions in Excess of Thresholds

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from GHG emissions for the project in that the amortized construction and operational emissions for both project components would result in a total annual emission of 2,997.6 metric tons (MT) of carbon dioxide equivalent (CO_2e). This would exceed the 900 MT of CO_2e per year screening threshold established by the County of San Diego. Detailed information and analysis regarding this potential significant impact are provided in Section 3.7, Greenhouse Gas Emissions, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.7, Greenhouse Gas Emissions, in the Final EIR, the project's potentially significant impact from GHG emissions would remain significant with the implementation of MM GHG-1, MM GHG-2, and MM TRAN-1. The total annual emissions of 2,997.6 MT of CO_2e would exceed the 900 MT of CO_2e per year screening threshold. MM GHG-1 would require future commercial developers to design buildings with GHG reducing measures. However, since no development is currently proposed, the specific measures that could be employed to reduce GHG emissions are unknown and cannot be quantified. MM GHG-2 would require future development to meet the state's Zero Net Energy standards, if the standards are adopted prior to commencement of construction, which would reduce GHG emissions. MM TRAN-1 would require a traffic demand management plan, which would reduce mobile source emissions by 39.3 MT of CO_2e per year.

MM GHG-1 Greenhouse Gas Emission Reducing Design. Prior to approval, future commercial developments shall list all GHG emission-reducing measures and demonstrate where these measures would be located in the plans. A report demonstrating compliance shall be submitted to the District's Planning Department.

The following is a list of proposed sustainability measures from the District Climate Action Plan that shall be required and incorporated into the Coastal Development Permit for the project.

- General measures:
    - No commercial drive-through shall be implemented.
- Water:
    - Indoor water consumption shall be reduced by 20 percent lower than baseline buildings (defined by Leadership in Energy and Environmental Design as indoor water use after meeting Energy Policy Act of 1992 fixture performance requirements) through use of low-flow fixtures in all administrative and common area bathrooms.
    - Low-water plantings and drip irrigation shall be installed, and domestic water demand from the city system for landscaping purposes shall be minimized.
- Waste:
    - Compliance with Assembly Bill 939 shall be mandatory and include recycling at least 50 percent of solid waste; recycling of demolition debris shall be mandatory and include recycling at least 65 percent of all construction and demolition debris.
    - All commercial, restaurant, and retail uses shall implement recycling, composting of food waste and other organics, and the use of reusable products instead of disposable products to divert solid waste from the landfill stream.
    - Recycled, regional, and rapidly renewable materials shall be used where appropriate during project construction.
- Energy:
    - Energy efficiency design features shall be incorporated that exceed the most recent Title 24 California Building Energy Efficiency Standards. Measures that may be implemented include:
        - Only fluorescent, light-emitting diodes, compact fluorescent lights, or the most energy-efficient lighting that meets required lighting standards and is commercially available shall be used.
        - Occupancy sensors for all vending machines shall be installed in new buildings at the project site.
        - On-site renewable energy to new buildings shall be implemented, unless the system cannot be built due to structural and operational constraints; evidence must be provided if not feasible, subject to District concurrence.
        - Cogeneration systems (i.e., combined heat and power systems) shall be installed in new buildings constructed at the project site.

        - High-performance glazing with a low solar heat gain coefficient value that reduces the amount of solar heat allowed into the building shall be installed, without compromising natural illumination.
        - Increased insulation shall be installed.
        - Cool roofs with an R value of 30 or better shall be installed.
        - Sun-shading devices shall be installed, as appropriate.
        - High-efficiency heating, ventilating, and air conditioning systems and controls shall be installed.
        - Programmable thermostats shall be installed.
        - Variable frequency drives shall be installed.
        - Energy Star-rated appliances shall be installed.
    - Mobile sources:
        - A minimum 6 percent of parking spaces shall be electric vehicle-ready.
        - A Transportation Demand Management plan for each project component that requires mandatory employer commuting measures, such as carpooling, transit subsidies, and vanpools, shall be implemented to reduce worker trips and parking demand.
        - Bicycle parking shall be included in project design. The number of spaces shall be, at a minimum, 5 percent of new automobile parking spaces.
    - Carbon sequestration and land use:
        - Trees and shrub planters shall be installed throughout the project area as part of the landscape plan.

MM GHG-2 **Electric Heating and Zero Net Energy Building.** The District shall require all development to meet the state's Zero Net Energy standards, if the standards are adopted prior to commencement of construction.

MM TRAN-1 **Implement Traffic Demand Management Measures.** See 5.10.1 for details.

5.6.2 Conflict with Applicable Greenhouse Gas Emission Reducing Plans

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from a conflict with a GHG emission reducing plan for program-level PMPA for Parcels A, B, and C in that the future commercial development would be inconsistent with the District's Climate Action Plan measures. Detailed information and analysis regarding this potential significant impact are provided in Section 3.7, Greenhouse Gas Emissions, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of

employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.7, Greenhouse Gas Emissions, in the Final EIR, the project's potentially significant impact from a conflict with an applicable GHG emission reducing plan would remain significant with the implementation of MM GHG-1, MM GHG-2, and MM TRAN-1. The total annual emissions of 2,997.6 MT of CO_2e would exceed the 900 MT of CO_2e per year screening threshold. MM GHG-1 would require future commercial developers to design buildings with GHG reducing measures; however, since no development is currently proposed, the specific measures that could be employed to reduce GHG emissions are unknown and cannot be quantified. MM GHG-2 would require future development to meet the state's Zero Net Energy standards, if the standards are adopted prior to commencement of construction. MM TRAN-1 would require a traffic demand management plan, which would reduce mobile source emissions by 39.3 MT CO_2e per year.

MM GHG-1 Greenhouse Gas Emission Reducing Design.

MM GHG-2 Electric Heating and Zero Net Energy Building.

MM TRAN-1 Implement Traffic Demand Management Measures. See Section 5.10.1 for details.

5.7 Hazards and Hazardous Materials

5.7.1 Release of Hazardous Materials into the Environment

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from hazards and hazardous materials for both the wetland mitigation bank and the PMPA for Parcels A, B, and C in that contaminated soils have been identified at the project site. Construction of the project would require excavation of soils. In the event excavation activities extend into any existing contaminated soils over the appropriate screening thresholds, there is a potential that hazardous materials could be released into the environment and expose workers to an unacceptable exposure level. Detailed information and analysis regarding this potential significant impact are provided in Section 3.8, Hazards and Hazardous Materials, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.8, Hazards and Hazardous Materials, of the Final EIR, the wetland mitigation bank's potentially significant impact from the release of hazardous materials into the environment would be mitigated to a level less than significant with the implementation of MM HAZ-1 and MM HAZ-2. Based on the analysis in Section 3.8, Hazards and Hazardous Materials, of the Final EIR, the potentially significant impact from the release of hazardous materials into the environment from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM HAZ-1 and MM HAZ-2. Implementation of MM HAZ-1 would require a soil management plan, that includes a characterization report, testing and profiling plan, and disposal plan, which would ensure proper identification, handling,

and disposal of contaminated soils. Implementation of MM HAZ-2 would require a site worker health and safety plan to ensure compliance with Hazardous Waste Operations and Emergency Response regulations for site workers.

MM HAZ-1 **Prepare and Implement a Soil Management Plan.** Prior to construction, the project proponent shall retain a licensed Professional Geologist, Professional Engineering Geologist, or Professional Engineer with experience in contaminated site restoration to prepare and submit a Soil Management Plan to the District for review and approval. After the District's review and approval, the project proponent shall implement the Soil Management Plan.

The plan shall include general provisions for how soils shall be managed within the project site. The plan shall ensure that soil requiring additional testing is identified and any soils that contain contaminants over the screening thresholds are properly managed. The plan shall address CCR Title 22 and Section 13260(a) of the California Water Code. The Soil Management Plan shall include the following:

- A *Site Contamination Characterization Report* (Characterization Report) delineating the vertical and lateral extent and concentration of residual contamination from the site's past uses. The Characterization Report shall include a compilation of data based on historical records review and from prior reports and investigations and, where data gaps are found, include new soil sampling to characterize the existing vertical and lateral extent and concentration of residual contamination. The project applicant shall coordinate with the County of San Diego Department of Health if the Characterization Report identifies contamination.

- A *Soil Testing and Profiling Plan* (Testing and Profiling Plan) for those materials that would be reused on site, reused off site, or disposed of during construction. Testing shall occur for all potential contaminants of concern, which shall include CCR Title 22 metals, volatile organic compounds, and total petroleum hydrocarbons at a minimum, and may also include polyaromatic hydrocarbon, pesticides, polychlorinated biphenyls, or any other suspected potential contaminants. For on-site soil reuse, the Testing and Profiling Plan shall document testing results compared to the effects range low thresholds for adverse biological effects (Long et al. 1995). For off-site soil reuse, the Testing and Profiling Plan shall document compliance with applicable screening criteria, which may include U.S. Environmental Protection Agency Region 9 Regional Screening Levels for composite worker soil, Department of Toxic Substances Control Modified screening levels for commercial and industrial soils, and Tier 1 Soil Screening Levels contained in RWQCB San Diego Region Order No R9-2014-0041, Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (Waiver 10, Section B(4)). However, off-site reuse screening criteria may be site specific. For off-site disposal, the Testing and Profiling Plan shall document compliance with CCR Title 22 for proper identification and segregation of hazardous and solid waste as needed for acceptance at a CCR Title 22–compliant off-site disposal facility. All excavation activities shall be actively monitored by a licensed Professional Geologist, Professional Engineering Geologist, or Professional Engineer for the

potential presence of contaminated soils and for compliance with the Testing and Profiling Plan.

- A *Soil Disposal Plan* (Disposal Plan), which shall describe the process for excavation, stockpiling, dewatering, treating, and loading and hauling of soil from the site. This plan shall be prepared in accordance with the Testing and Profiling Plan (i.e., in accordance with CCR Title 22 and U.S. Department of Transportation Title 40 Code of Federal Regulations Part 263), Section 13260(a) of the California Water Code, and current industry best practices for the prevention of cross contamination, spills, or releases. Measures shall include, but not be limited to, segregation into separate piles for waste profile analysis based on organic vapor, and visual and odor monitoring. Alternatively, soil shall be fully characterized *in situ*, prior to excavation, and may be loaded directly for transport and reuse or disposal in lieu of stockpiling.

  General soil management controls to be implemented by the contractor and the following topics shall be addressed within the Soil Management Plan:

- Dust control
- Management of soil stockpiles
- Stormwater erosion control using BMPs, as specified in a stormwater pollution prevention plan

MM HAZ-2 **Prepare and Implement a Site Worker Health and Safety Plan.** Prior to construction the project proponent shall prepare and submit a Site Worker Health and Safety Plan (Safety Plan) to the District for review and approval. The Safety Plan shall ensure compliance with 29 Code of Federal Regulations Part 120, Hazardous Waste Operations and Emergency Response regulations for site workers at uncontrolled hazardous waste sites. The Safety Plan shall ensure that site workers potentially exposed to site contamination in soil and groundwater are trained, equipped, and monitored during site activity. The training, equipment, and monitoring activities shall ensure that workers are not exposed to contaminants above personnel exposure limits established by Table Z, 29 Code of Federal Regulations Part 1910.1000. The Safety Plan shall be signed by and implemented under the oversight of a California State Certified Industrial Hygienist.

5.8 Hydrology and Water Quality

5.8.1 Substantially Alter the Existing Drainage Pattern of the Site

Project Level – Wetland Mitigation Bank

Potential Impact. The Final EIR identifies a potentially significant impact on hydrology and water quality for the wetland mitigation bank in that the project would alter the existing drainage pattern of the site and potentially result in long-term scour around the Bayshore Bikeway Bridge or downstream. Detailed information and analysis regarding this potential significant impact are provided in Section 3.9, Hydrology and Water Quality, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.9, Hydrology and Water Quality, in the Final EIR, the wetland mitigation bank's potentially significant impact resulting from altering the existing drainage pattern of the site would be mitigated to a level less than significant with the implementation of MM HY-1. Impacts from potential erosion due to long-term tidal scour on the Bayshore Bikeway Bridge or channel downstream would be reduced with the implementation of MM HY-1 to less than significant by requiring preparation and implementation of a Bridge and Channel Scour Monitoring and Maintenance Program. The program would require annual monitoring of the channel and a professional engineer and qualified biologist to review the results of the surveys and identify appropriate adaptive management strategies. The implementation of adaptive strategies may result in additional effects which would be approved by applicable agencies through the permit process.

MM HY-1 **Bridge and Channel Scour Monitoring and Maintenance.** A Bridge and Channel Scour Monitoring and Maintenance Program shall be developed and implemented by the District. The program shall outline a survey plan to be carried out for a minimum of 10 years. The survey plan shall:

- Identify protocols for collecting baseline data prior to commencement of construction;
- Identify a minimum of 5 cross sections to be surveyed for scour and the area to be surveyed for sensitive habitats;
- Require annual monitoring for at least 10 years;
- Identify ideal conditions for monitoring (i.e., season, tide level, outside nesting season);
- Identify monitoring protocols (i.e., qualified biologist); and
- Require a professional engineer and qualified biologist to review the results of the surveys.

Based on the results of the survey, a professional engineer shall compare the results of the annual surveys to baseline conditions to determine the amount of scour at each cross section. The professional engineer shall identify adaptive management strategies, if necessary, to ensure the existing structures do not fail, including the Bayshore Bikeway Bridge and salt pond berms. During the 10th year of monitoring, the professional engineer shall determine if additional annual monitoring is needed. Additional annual monitoring shall be assessed on an annual basis following the completion of 10 years of monitoring.

The qualified biologist shall compare the results of the annual surveys to baseline conditions to determine impacts on sensitive habitats. If impacts on sensitive habitat are documented, then compensatory mitigation per MM BR-10 shall be determined in consultation with applicable agencies.

The cross sections included in the program shall include the channel in the area of the Bayshore Bikeway Bridge and the narrow channel cross section of the Otay River immediately downstream of the bridge near Pond 22 identified in Environmental

Science Associate's 2020 Hydrodynamic Modeling Report (Appendix K to this EIR). The sensitive habitat survey area shall include the area from the berm breach site to the marsh bank at the narrow channel cross section of the Otay River.

As part of the baseline data collected, the program shall require probing the sediment in the channel in the vicinity of the Bayshore Bikeway Bridge. The conservatively high estimate in Environmental Science Associates' 2020 Hydrodynamic Modeling Report (Appendix K to this EIR) identified the potential for widening of the channel to occur if downcutting is limited at this location. If hardened areas in the sediment are identified at this location, the professional engineer shall identify adaptive management strategies. Baseline data should also include vegetation mapping from the berm breach site to the marsh bank at the narrow channel cross section of the Otay River.

The program shall identify adaptive management strategies that are appropriate for the location, which would not impact tidal influence at the mitigation bank, and are approved by the professional engineer. Potential adaptive management strategies include:

- Removal of hardened sediment near the Bayshore Bikeway Bridge;
- Excavation of sediment;
- Re-grading of the channel; and
- Armoring of the channel.

If re-grading or armoring is required, the program shall include measures to ensure consistency with post-construction erosion control plans.

5.9 Noise

5.9.1 Temporary Increase in Ambient Noise Levels

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from noise for the program-level PMPA for Parcels A, B, and C in that future commercial development may result in a temporary increase in ambient noise levels during construction. Detailed information and analysis regarding this potential significant impact are provided in Section 3.11, Noise, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.11, Noise, in the Final EIR, the potentially significant impact from a temporary increase in ambient noise levels from the implementation of the PMPA on Parcel A, B, and C would remain significant with implementation of MM NOI-1. Implementation of MM NOI-1 would require compliance with the City of San Diego’s construction noise hours limitations, that all construction equipment be equipped with

manufacturer-recommended mufflers, a detailed construction plan for scheduling impactful construction activities to minimize disturbances, and that sensitive receptors be acoustically shielded from construction activities with temporary noise barriers placed around the equipment generating the noise. These measures would only reduce by 5–6 dBA and some construction phases would exceed the City of San Diego's 75 dBA L_{eq} with mitigation.

MM NOI-1 **Employ Noise Reducing Measures During Construction.** Construction of the future commercial development on Parcels A, B, and/or C shall be required to comply with the following measures:

a) Construction activity is prohibited between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day, or on legal holidays as specified in Section 21.04 of the San Diego Municipal Code, with exception of Columbus Day and Washington's Birthday, or on Sundays, that would create disturbing, excessive, or offensive noise unless a permit has been applied for and granted beforehand by the Noise Abatement and Control Administrator, in conformance with San Diego Municipal Code Section 59.5.0404. No noise variance permit would be sought and construction would adhere to the times identified above.

b) The contractor shall equip all internal combustion engines with the manufacturer-recommended muffler and shall not operate any internal combustion engine on the job site without the appropriate muffler.

c) The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.

d) When construction activities are projected to exceed 75 dBA L_{eq} during the 12-hour period from 7:00 a.m. to 7:00 p.m., equipment generating the noise shall be acoustically shielded with temporary noise barriers or pile driving shielding. The need for and feasibility of temporary noise barriers would be evaluated on a case-by-case basis by considering the distance to noise-sensitive receptors, available space at the construction location, safety, and proposed project operations.

5.9.2 Generation of Excessive Groundborne Vibration

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from groundborne vibration for the program-level PMPA for Parcels A, B, and C in that future commercial development may result in a temporary generation of excessive groundborne vibration during construction. Detailed information and analysis regarding this potential significant impact are provided in Section 3.11, Noise, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.11, Noise, in the Final EIR, the potentially significant impact from a generation of excessive groundborne vibration from the implementation of the PMPA on Parcel A, B, and C would remain significant with implementation of MM NOI-1. Implementation of MM NOI-1 would require compliance with the City of San Diego's construction noise hours limitations, that all construction equipment be equipped with manufacturer-recommended mufflers, a detailed construction plan for scheduling impactful construction activities to minimize disturbances, and that sensitive receptors be acoustically shielded from construction activities with temporary noise barriers placed around the equipment generating the noise.

MM NOI-1 Employ Noise Reducing Measures During Construction.

5.10 Transportation

5.10.1 Conflict with CEQA Guidelines Section 15064.3(b)

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact from generating an increase in vehicle miles traveled (VMT) for the program-level PMPA for Parcels A, B, and C in that future commercial development would exceed the regional threshold for retail use of no increase in VMT. Detailed information and analysis regarding this potential significant impact are provided in Section 3.13, Transportation, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. Based on the analysis in Section 3.13, Transportation, in the Final EIR, the potentially significant impact from generating VMT from the implementation of the PMPA on Parcels A, B, and C would remain significant with implementation of MM TRAN-1. MM TRAN-1 includes all feasible measures identified based on the results of the San Diego Association of Governments Mobility Management VMT Reduction Calculator Tool. MM TRAN-1 would be implemented to reduce future commercial development VMT by requiring a mandatory employer commute program, employer carpool program, employer transit pass subsidy, and employer vanpool program. MM TRAN-1 would reduce VMT by 2.6 percent, which is well short of the 100 percent reduction of project related VMT that is required to reduce the identified impact to less than significant.

MM TRAN-1 Implement Transportation Demand Management Measures. To reduce VMT by operation of future commercial development, the following Transportation Demand Management reduction measures from the San Diego Association of Governments Mobility Management VMT Reduction Calculator Tool shall be implemented.

- *1B Mandatory Employer Commute Program.* The District shall mandate future project applicants to implement a commute program as part of their lease. Employer offers a mandatory employer commute trip reduction program. The program may include a carpool or vanpool program, subsidized or discounted transit passes, bike amenities, encouragement for telecommuting and alternative

work schedules, commute trip reduction marketing, and preferential parking permit program.

- *1C Employer Carpool Program.* Employers can encourage carpooling by providing ride-matching assistance to employees; providing priority parking for carshare vehicles; and providing incentives for carpooling. The District shall mandate future project applicants to implement a commute program as part of their lease.
- *1D Employer Transit Pass Subsidy.* Employers can encourage employees to take transit by subsidized or discounted daily or monthly public transit passes to employees.
- *1E Employer Vanpool Program.* Vanpooling is a flexible form of public transportation that provides groups of 5–15 people with a cost-effective and convenient rideshare option for commuting. An employer can encourage ridesharing by subsidizing vanpooling for employees that have a similar origin and destination and by providing priority parking for employees that vanpool. The San Diego Association of Governments Vanpool Program provides a subsidy of up to $400 per month to offset the vehicle lease cost.
- *4C Bike Facility Improvement.* A bikeway network includes an interconnected system of bike lanes, bike paths, and cycle tracks (Class I, Class II, and Class IV facilities). Bike facilities may share the roadway with vehicles or provide a dedicated pathway that separates bikes from cars or pedestrians. Increasing the network of bike facilities help to encourage biking as a safe and convenient alternative to driving.

5.11 Tribal Cultural Resources

5.11.1 Substantial Adverse Change in the Significance of Tribal Cultural Resources

Project Level – Wetland Mitigation Bank and Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on tribal cultural resources for both the wetland mitigation bank and the PMPA for Parcels A, B, and C due to the presence of Native American archaeological sites CA-SDI-4360 and CA-SDI-19712 within the project site. Detailed information and analysis regarding this potential significant impact are provided in Section 3.14, Tribal Cultural Resources, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.14, Tribal Cultural Resources, in the Final EIR, the project's potentially significant impact on tribal cultural resources would be mitigated to a level less than significant with the implementation of MM TCR-1. Implementation of MM TCR-1 would require the District to invite a Native American monitor who would minimize harm to, and ensure the appropriate treatment of, any undiscovered objects or features with

cultural value to descendant communities, including Native American burial remains, associated and unassociated funerary objects, sacred objects, and other cultural patrimony.

MM TCR-1 **Native American Monitoring.** The District shall retain a qualified Native American cultural resource monitor to be present during all archaeological investigations, grading, and subsurface disturbance within the project site. In the event that on-site monitoring of excavations is determined unfeasible due to safety or logistical concerns, the Native American monitor shall be present during off-site visual observation or screening of sediment, as detailed in MM CR-1. The Native American monitor shall work in coordination with the archeological monitor and the District's qualified archaeologist, who shall notify them in advance of the schedule and locations for cultural resource monitoring activities. If more than one location is under construction at a given time, and if both locations cannot effectively be monitored by one individual, more than one Native American monitor may be required.

Because the Native American monitor is invited to participate, work shall be allowed to continue without their presence. The Native American monitor shall not have the authority to temporarily halt equipment or issue a stop-work order. The Native American monitor shall report any concerns and input to the archaeological monitor or the District's qualified archaeologist, who shall be responsible for taking the appropriate action in response.

5.12 Utilities and Service Systems

5.12.1 Require Construction of New or Expanded Utilities

Program Level – Parcels A, B, and C Port Master Plan Amendment

Potential Impact. The Final EIR identifies a potentially significant impact on utilities and service systems for the program-level PMPA for Parcels A, B, and C in that future commercial development would require connection to numerous utilities to support commercial development. The connection of new utilities would require trenching, excavation, and grading, which could result in direct and indirect impacts on biological, cultural, and TCRs and would result in construction-related impacts including noise generation and emission of criteria air pollutants. Detailed information and analysis regarding this potential significant impact are provided in Section 3.15, Utilities and Service Systems, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR.

Facts in Support of Finding. Based on the analysis provided in Section 3.15, Utilities and Service Systems, in the Final EIR, the potentially significant impacts from the construction of new utilities from implementation of the PMPA for Parcels A, B, and C would be mitigated to a level less than significant with the implementation of MM BR-1, MM BR-2, MM BR-3, MM BR-4, MM BR-5, MM BR-7, MM BR-8, MM BR-10, MM CR-1, MM CR-3, and MM TCR-1.

Implementation of MM BR-1 would require implementation of biological resource protection measures during construction, which would reduce impacts on special status plants and wildlife by requiring a range of measures, such as WEAP training and requiring vegetation removal occur outside of bird nesting season. Implementation of MM BR-2 would require preconstruction rare plant surveys, which

would identify target species that would need to be restored. Implementation of MM BR-3 would require restoration of temporary impacts, which would restore suitable habitat. Implementation of MM BR-4 would require preconstruction avian surveys for federally and state-listed species to determine presence of these species and install appropriate buffers. Implementation of MM BR-5 would require preconstruction surveys for burrowing owl to determine presence of the species and install appropriate buffers. Implementation of MM BR-7 would require biological resource protection measures to be implemented during operations. Implementation of MM BR-8 would require wildlife surveys be conducted on Parcels A, B, and C prior to construction to determine presence of species in order to avoid impacts. Implementation of MM BR-10 would require compensatory mitigation for impacts on WOUS, CCC wetlands, and CDFW-regulated streambed, which would ensure no loss of aquatic function. Implementation of MM CR-1 would reduce impacts on archaeological sites CA-SDI-4360 and CA-SDI-19712 from destruction or alteration of potentially significant subsurface archaeological deposits through the recovery of scientifically consequential information from and about historical resources. Implementation of MM CR-3 would reduce impacts from disturbing human remains by identifying procedures if an inadvertent discovery is made during ground disturbing activities. Implementation of MM TCR-1 would require the District to invite a Native American monitor who would minimize harm to and ensure the appropriate treatment of any undiscovered objects or features with cultural value to descendant communities, including Native American burial remains, associated and unassociated funerary objects, sacred objects, and other cultural patrimony.

MM BR-1 Implement Biological Resource Protection Measures During Construction.

MM BR-2 Preconstruction Rare Plant Surveys.

MM BR-3 Restoration of Temporary Impacts.

MM BR-4 Preconstruction Surveys for Federally and State Listed Avian Species.

MM BR-5 Preconstruction Surveys for Burrowing Owl.

MM BR-7 Implement Resource Protection Measures During Operation for Parcels A, B, And C.

MM BR-8 Wildlife Surveys for Parcels A, B, And C.

MM BR-10 Compensatory Mitigation for Impacts on Special Status Biological Resources.

MM CR-1 Preparation of a Cultural Resource Mitigation and Management Plan.

MM CR-3 Inadvertent Discovery of Human Remains.

MM TCR-1 Native American Monitoring.

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6 Effects Found Not to be Significant

CEQA Guidelines Section 15128 require that an EIR contain a brief statement disclosing the reasons why various possible significant effects of the project were found not to be significant, and therefore, would not be discussed in detail in the EIR. Chapter 5, Additional Consequences of Project Implementation, of the Final EIR identified the following issue areas that would not be impacted by the project:

- Aesthetics
  - Threshold (d) Light and Glare (Project Level – Wetland Mitigation Bank)
- Agriculture and forestry resources
- Air quality
  - Threshold (d) Odors (Project Level – Wetland Mitigation Bank)
- Biological resources
  - Threshold (e) and (f) Local Policies, Ordinances, or Habitat Conservation Plans Protecting Biological Resources
- Energy
  - Threshold (b) State of Local Renewable Energy or Energy Efficiency Plans (Project Level – Wetland Mitigation Bank)
- Geology and soils
  - Threshold (a.i.) Rupture of Known Earthquake Fault
  - Threshold (a.iv.) Landslides
  - Threshold (e) Septic Tanks (Project Level – Wetland Mitigation Bank)
- Hazards and hazardous materials
  - Threshold (c) Proximity to Schools
  - Threshold (d) Hazardous Materials Sites
  - Threshold (e) Airports
- Hydrology and water quality
  - Threshold (b) Groundwater (Project Level – Wetland Mitigation Bank)
  - Threshold (c.iii.) Stormwater Runoff (Project Level – Wetland Mitigation Bank)
  - Threshold (e) Water Quality Control Plan (Project Level – Wetland Mitigation Bank)
- Land use and planning
  - Threshold (a) Physically Divide and Established Community
- Mineral resources
- Population and housing

- Public services
  - Threshold (a.i.) Fire Protection (Project Level – Wetland Mitigation Bank)
  - Threshold (a.ii.) Police Protection
  - Threshold (a.iii.) Schools
  - Threshold (a.iv.) Parks
  - Threshold (a.v.) Other Public Facilities
- Recreation
- Transportation
  - Threshold (c) Geometric Design Feature (Project Level – Wetland Mitigation Bank)
  - Threshold (d) Inadequate Emergency Access
- Utilities and service systems
  - Threshold (a) Relocation and Construction of New or Expanded Facilities (Project Level – Wetland Mitigation Bank)
  - Threshold (b) Sufficient Water Supplies (Project Level – Wetland Mitigation Bank)
  - Threshold (c) Wastewater Treatment (Project Level – Wetland Mitigation Bank)
- Wildfire

7 Findings Regarding Cumulative Significant Effects

CEQA requires a lead agency to evaluate the cumulative impacts of a proposed project (CEQA Guidelines Section 15130[a]). Cumulative impacts are those that are considered significant when viewed in connection with the impacts of other closely related, past, present, and reasonably foreseeable future projects (CEQA Guidelines Section 15355). Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

The EIR analyzes cumulative impacts by compiling a list of past, present, and probable future project producing related or cumulative impacts, including projects outside the lead agency's jurisdiction (CEQA Guidelines Section 15130[b][1][A]). The list of past, present, and reasonably foreseeable future projects should include related projects that have already been constructed, are currently under construction, are approved but not yet under construction, and are not yet approved but are under environmental review at the time the Draft EIR is prepared (CEQA Guidelines Section 15130). The list must include not only projects under review by the lead agency, but also those under review by other relevant public agencies.

The EIR considered 13 past, present, and reasonably foreseeable projects within the vicinity of the project in evaluating potential cumulative impacts. A detailed description of these projects is provided in Chapter 4, Cumulative Impacts, of the Final EIR.

The project would contribute to cumulative impacts related to GHG emissions and transportation. The findings below identify each of the potential significant cumulative environmental impacts, the mitigation measures adopted to substantially lessen or avoid impacts, or the reasons proposed mitigation measures are infeasible due to specific economic, social, or other considerations. The findings incorporate, by reference, the analysis of significant cumulative impacts contained in Chapter 4, Cumulative Impacts, of the Final EIR.

The potential significant cumulative impacts related to GHG emissions and transportation would not be avoided or reduced to a level below significance despite the incorporation of all feasible mitigation measures. As described in the statement of overriding consideration below, the District has determined these unavoidable significant cumulative impacts are acceptable because of specific overriding considerations.

7.1 Greenhouse Gas Emissions

7.1.1 Generate Greenhouse Gas Emissions in Excess of Thresholds and Conflict with Applicable Greenhouse Gas Emission Reducing Plans

Potential Impact. The Final EIR identifies a potential significant cumulative impact from GHG emissions for the project in that the amortized construction and operational emissions for both project components would result in a total annual emission of 2,997.6 MT of CO_2e. This would exceed the 900 MT of CO_2e per year screening threshold established by the County of San Diego. This would also conflict with the District's Climate Action Plan measures. Detailed information and analysis regarding this potential significant cumulative impact are provided in Section 4.3.7, Greenhouse Gas Emissions, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. As stated in Chapter 4, Cumulative Impacts, GHG emissions are inherently a cumulative analysis. Past, present, and reasonably foreseeable future projects throughout the world including, but not limited to, the projects listed in Chapter 4, Cumulative Impacts, have contributed and continue to contribute to cumulative impacts on global climate change. The project's increase in GHG emissions would contribute to significant cumulative impacts.

Based on the analysis in Section 4.3.7, Greenhouse Gas Emissions, in the Final EIR, the project's potential significant cumulative impact from GHG emissions would remain significant with the implementation of MM GHG-1, MM GHG-2, and MM TRAN-1. The total annual emissions of 2,997.6 MT of CO_2e would exceed the 900 MT of CO_2e per year screening threshold. MM GHG-1 would require future commercial developers to design buildings with GHG-reducing measures; however, since no development is currently proposed, the specific measures that could be employed to reduce GHG emissions are unknown and cannot be quantified. MM GHG-2 would require future development to meet the state's Zero Net Energy standards if the standards are adopted prior to commencement of construction. MM TRAN-1 would require a traffic demand management plan, which would reduce mobile source emissions by 39.3 MT of CO_2e per year.

MM GHG-1 Greenhouse Gas Emission Reducing Design.

MM GHG-2 Electric Heating and Zero Net Energy Building.

MM TRAN-1 Implement Traffic Demand Management Measures.

7.2 Transportation

7.2.1 Conflict with CEQA Guidelines Section 15064.3(b)

Potential Impact. The Final EIR identifies a potential significant cumulative impact from generating an increase in VMT for the program-level PMPA for Parcels A, B, and C in that future commercial development would exceed the regional threshold for retail use of no increase in VMT. Detailed information and analysis regarding this potential significant cumulative impact are provided in Section 4.3.13, Transportation, of the Final EIR.

Finding. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. Pursuant to CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Facts in Support of Finding. As stated in Chapter 4, Cumulative Impacts, VMT is largely a cumulative impact by nature. VMT from past, present, and probable future projects have contributed to, and continue to contribute to, cumulative VMT impacts, as well as similarly cumulative secondary physical environmental effects such as increased GHG emissions. The project's increase in VMT would contribute to significant cumulative impacts.

Based on the analysis in Section 4.3.13 of Chapter 4, Transportation, in the Final EIR, the potential significant cumulative impact from generating VMT from the implementation of the PMPA on Parcel A, B, and C would remain significant with implementation of MM TRAN-1. MM TRAN-1 includes all feasible measures identified based on the results of the Mobility Management VMT Reduction Calculator Tool. MM TRAN-1 would be implemented to reduce future commercial development VMT by requiring a mandatory employer commute program, employer carpool program, employer transit pass subsidy, and employer vanpool program. MM TRAN-1 would reduce VMT by 2.6 percent, which is well short of the 100 percent reduction of project related VMT that is required to reduce the identified impact to less than significant.

MM TRAN-1 Implement Transportation Demand Management Measures.

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8 Findings Regarding Feasible Alternatives

In preparing and adopting Findings, a lead agency need not necessarily address the feasibility of both mitigation measures and environmentally superior alternatives when contemplating the approval of a project with significant environmental impacts. Where the significant impacts can be mitigated to a level below significance solely by the adoption of mitigation measures, the lead agency has no obligation in drafting its Findings to consider the feasibility of environmentally superior alternatives, even if their impacts would be less severe than those of the project as mitigated. Accordingly, in adopting the Findings concerning alternatives for the proposed project, the District considers only those significant environmental impacts that cannot be avoided or substantially lessened through mitigation.

When a project results in some unavoidable, significant environmental impacts, even after application of all feasible mitigation measures identified in an EIR, the lead agency must evaluate the project alternatives identified in the EIR. Under such circumstances, the lead agency must consider the feasibility of alternatives to the project that could avoid or substantially lessen the unavoidable, significant environmental impacts. The term feasible means capable of being accomplished in a successful manner within a reasonable time, while taking into account economic, environmental, legal, social, and technological factors (CEQA Guidelines, Section 15364).

If there are no feasible project alternatives, the lead agency must adopt a statement of overriding considerations with regard to the project, pursuant to CEQA Guidelines, Section 15093. If there is a feasible alternative to the project, the lead agency must decide whether it is environmentally superior to the proposed project. The lead agency must consider in detail only those alternatives that could feasibly attain most of the basic objectives of the project; however, the lead agency must consider alternatives capable of eliminating significant environmental impacts even if these alternatives would impede to some degree the attainment of project objectives (CEQA Guidelines, Section 15126.6[f]).

These Findings contrast and compare the alternatives where appropriate to demonstrate that the selection of a preferred alternative as the approved project has substantial environmental, planning, fiscal, and other benefits. In rejecting certain alternatives, the District has examined the project objectives and weighed the ability of the various alternatives to meet the objectives. The objectives considered by the District are set forth in Section 2.3, as well as Section 2.3 of Chapter 2, Project Objectives, of the EIR.

The EIR examined a range of reasonable alternatives to determine whether they could meet the project objectives while avoiding or substantially lessening one or more of the proposed project's unavoidable, significant impacts. These Findings also considered the feasibility of each alternative. In determining the feasibility of alternatives, the District considered whether the alternatives could be accomplished in a successful manner within a reasonable period of time in light of economic, environmental, social, and technological factors (CEQA Guidelines, Sections 15126(d)(5)(A), 15364). "In the context of project approval, a public agency may find that an alternative is 'infeasible' if it determines, based upon the balancing of the statutory factors, that an alternative cannot meet project objectives or 'is impractical or undesirable from a policy standpoint'" (Los Angeles Conservancy v. City of West Hollywood [2017] 18 Cal.App.5th 1031, 1041). Therefore, "broader considerations of policy thus come into play when the decision-making body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives" (California Native Plant Society v. City of Santa Cruz [2009] 177 Cal.App.4th 957, 1000).

The alternatives to the project are evaluated in Chapter 6, Alternatives to the Proposed Project, of the EIR in terms of their ability to meet the basic objectives of the project and eliminate or further reduce its significant environmental effects. Based on these parameters, the following alternatives were considered and analyzed in the EIR:

(1) Alternative 1: No Project/No Wetland Mitigation Bank or PMPA Alternative

(2) Alternative 2: Wetland Mitigation Bank and No Commercial Development on Parcels A, B, and C

(3) Alternative 3: Wetland Mitigation Bank, Commercial Recreation on Parcels B and C, and Open Space on Parcel A

This section of the Findings summarizes these alternatives and their feasibility and effectiveness in avoiding or substantially lessening any of the unavoidable, significant impacts associated with the proposed project.

8.1 Alternative 1: No Project/No Wetland Mitigation Bank or Port Master Plan Amendment Alternative

CEQA Guidelines require analysis of the No Project Alternative. According to Section 15126.6(e), “the specific alternative of ‘no project’ shall also be evaluated, along with its impacts. The ‘no project’ analysis shall discuss the existing conditions at the time the NOP is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the proposed project was not approved, based on current plans and consistent with available infrastructure and community services.”

The No Project/No Wetland Mitigation Bank or PMPA Alternative assumes that the proposed project would not be implemented, and the project site would remain in its current condition and remain unchanged. Under the No Project/No Wetland Mitigation Bank or PMPA Alternative, no wetland mitigation bank would be developed, and no parcels would be incorporated into the PMP.

The potential impacts of the No Project/No Wetland Mitigation Bank or PMPA Alternative are discussed in detail in Chapter 6, Alternatives to the Proposed Project, of the Final EIR. Relative to the proposed project, the No Project/No Wetland Mitigation Bank or PMPA Alternative would avoid or reduce impacts related to aesthetics, biological resources, cultural resources, energy, geology and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, noise, transportation, tribal cultural resources, and utilities and service systems. However, the No Project/No Wetland Mitigation Bank or PMPA Alternative would result in a greater impact related to land use and planning because the parcels would not be incorporated into the PMP, which would be in conflict with the Port Act.

The District finds that all the potentially significant environmental impacts of the proposed project, except the unavoidable, significant impact related to GHG emissions, noise, and transportation, would be mitigated by the design of the proposed project and the adoption of the mitigation measures set forth in the MMRP. The District further finds that, although the No Project/No Wetland Mitigation Bank or PMPA Alternative would avoid or substantially lessen the potentially significant impacts related to aesthetics, biological resources, cultural resources, energy, geology and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, noise, transportation, tribal cultural resources, and utilities and service systems, this alternative is infeasible because it would not attain any of the project objectives and would not provide the District and the region with any of the benefits

described in the statement of overriding considerations, and thus, would be undesirable from a policy standpoint. For the potentially significant impacts that cannot be avoided or mitigated to a level below significance, the District adopts the statement of overriding considerations in Section 9, pursuant to CEQA Guidelines, Section 15093.

8.2 Alternative 2: Wetland Mitigation Bank and No Commercial Development on Parcels A, B, and C

The Wetland Mitigation Bank and No Commercial Development of Parcels A, B, and C Alternative assumes the creation of the wetland mitigation bank would occur as described in the EIR. The Bank Parcel would be incorporated into the PMP with the land use designation of wetlands. Parcels A, B, and C would still be incorporated into the PMP; however, instead of the land use designation of commercial recreation, the land use designation of open space would be assigned. The open space land use designation may include limited use and/or transitional zones from biologically significant resources deserving protection and preservation. Public access within open spaces areas is limited to passive uses, such as outlooks, picnic areas, or spur trails, which should include interpretive and educational opportunities. This alternative assumes preservation and protection of the wetland features on Parcels A and C.

The potential impacts of Alternative 2 are discussed in detail in Chapter 6, Alternatives to the Proposed Project, of the Final EIR. Relative to the proposed project, the Wetland Mitigation Bank and No Commercial Development of Parcels A, B, and C Alternative would avoid significant impacts related to GHG emissions, noise, and transportation. Additionally, less than significant impacts associated with several resource areas would be reduced or avoided, including impacts on air quality, energy, geology and soils, and utilities and service systems. Impacts on aesthetics, biological resources, cultural resources, hazards and hazardous materials, hydrology and water quality, land use, public services, and TCRs would be similar to the proposed project.

Alternative 2 would meet most of the project objectives; however, the project objective of supporting economic development and community investment, in alignment with the District's adoption of Board Policy No. 774, would not be met by the program-level component. As a result of not including commercial development on Parcels A, B, and C, this alternative does not maximize the economic benefit to the areas specified in Board Policy No. 774.

The District finds that all the potentially significant environmental impacts of the proposed project, except the unavoidable, significant impact related to GHG emissions, noise, and transportation, would be mitigated by the design of the proposed project and the adoption of the mitigation measures set forth in the MMRP. The District further finds that, although Alternative 2 would avoid or substantially lessen the potentially significant impacts related to energy, geology and soils, GHG emissions, noise, transportation, and utilities and service systems, this alternative is infeasible because it would not attain all of the project objectives, particularly the objective to promote economic development and community investment consistent with Board Policy No. 774, which established the Pond 20 EDF to collect and allocate funds for economic development and public improvement projects, which in turn produce public economic improvements or public benefits, in the City of Imperial Beach and the City of San Diego, Council District 8. Moreover, Alternative 2 would not provide the District and the region with all of the benefits described in the statement of overriding considerations, and thus, would be undesirable from a policy standpoint. For the potentially significant impacts that cannot be avoided or mitigated to a level below significance, the District adopts the statement of overriding considerations in Section 9, pursuant to CEQA Guidelines, Section 15093.

8.3 Alternative 3: Wetland Mitigation Bank, Commercial Recreation on Parcels B and C, and Open Space on Parcel A

The Wetland Mitigation Bank, Commercial Recreation on Parcels B and C, and Open Space on Parcel A Alternative assumes the creation of the wetland mitigation bank would occur as described in the EIR. The Bank Parcel would be incorporated into the PMP with the land use designation of wetlands. Parcels B and C would still be incorporated into the PMP as commercial recreation, as described in the EIR. Parcel A would be incorporated into the PMP with the land use designation of open space. Similar to Alternative 2, the open space land use designation may include limited use and/or transitional zones from biologically significant resources deserving protection and preservation. Public access within open space areas is limited to passive uses, such as outlooks, picnic areas, or spur trails, which should include interpretive and educational opportunities. This alternative assumes protection of the wetland features on Parcel A.

The potential impacts of Alternative 3 are discussed in detail in Chapter 6, Alternatives to the Proposed Project, of the Final EIR. Relative to the proposed project, the Wetland Mitigation Bank, Commercial Recreation on Parcels B and C, and Open Space on Parcel A Alternative would result in similar impacts for all resource area compared to the proposed project; however, some resources would result in slightly reduced impacts. Significant and unavoidable impacts from GHG emissions, noise, and transportation would be similar to the proposed project.

Alternative 3 would meet most of the project objectives; however, the project objective of supporting economic development and community investment, in alignment with the District's adoption of Board Policy No. 774, would not be met by the program-level component. As a result of not including commercial development on Parcel A, this alternative does not maximize the economic benefit to the areas specified in Board Policy No. 774.

The District finds that all the potentially significant environmental impacts of the proposed project, except the unavoidable, significant impacts related to GHG emissions, noise, and transportation, would be mitigated by the design of the proposed project and the adoption of the mitigation measures set forth in the MMRP. The District finds that, although Alternative 3 would slightly reduce impacts for some resources, this alternative is infeasible because it would not attain all of the project objectives. Particularly, Alternative 3 would not achieve, to the same extent as the project, the objective to promote economic development and community investment consistent with Board Policy No. 774, which established the Pond 20 EDF to collect and allocate funds for economic development and public improvement projects, which in turn produce public economic improvements or public benefits, in the City of Imperial Beach and the City of San Diego, Council District 8. Moreover, Alternative 2 would not provide the District and the region with all of the benefits described in the statement of overriding considerations, and thus, would be undesirable from a policy standpoint. For the potentially significant impacts that cannot be avoided or mitigated to a level below significance, the District adopts the statement of overriding considerations in Section 9, pursuant to CEQA Guidelines, Section 15093.

9 Statement of Overriding Considerations

As discussed in Section 5 of these CEQA findings, the Final EIR concludes that the project, even with incorporation of all feasible mitigation measures and consideration of alternatives, would have a significant impact related to GHG emissions, noise, and transportation.

Section 15093 of the CEQA Guidelines requires the lead agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a project outweigh the unavoidable, adverse environmental effects, the adverse environmental effects may be considered acceptable.

When the lead agency approves a project that would result in the occurrence of significant effects, which are identified in the Final EIR but are not avoided or substantially lessened by the adoption of all feasible mitigation measures and alternatives, the lead agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

Pursuant to CEQA Section 21081 and CEQA Guidelines Section 15093, the District adopts the following statement of overriding considerations regarding the unavoidable significant impacts related to GHG emissions, noise, and transportation outlined in the Final EIR for the Wetland Mitigation Bank at Pond 20 and PMPA Project, as well as the anticipated economic, legal, social, and technological and other benefits associated with the project.

In approving the project, the District has weighed the benefits of the project against the significant adverse impacts identified in the Final EIR that have not been avoided or lessened through mitigation to a level of less than significant. The District hereby determines that benefits of the project outweigh the unmitigated adverse impact, and the project should be approved. The District finds that, to the extent that the identified significant or potentially significant adverse impact has not been avoided or substantially lessened, there are specific economic, legal, social, technological, and other considerations which support approval of the project.

9.1 Adoption of Overriding Considerations

The District adopts this statement of overriding considerations and finds that the project has substantially lessened all significant impacts where feasible, and the remaining unavoidable impacts of the project are acceptable in light of the economic, legal, social, technological, and other considerations set forth herein, as the benefits of the project outweigh the significant adverse impacts of the project. The District finds that each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefit of the project outweighs the significant adverse environmental impacts. This is supported by substantial evidence in the record that includes, but is not limited to, the Final EIR, staff reports and analysis, and other documents referenced in this statement of overriding considerations and its adopting resolution.

9.2 Benefits of the Project

The District finds that the project's unavoidable potential significant environmental impacts are outweighed by these considerable benefits.

- The proposed project will advance the goal articulated in the Port's mission statement that provides: "While protecting the Tidelands Trust resources, the District will balance economic benefits, community services, environmental stewardship, and public safety on behalf of the citizens of California." The proposed project meets all aspects of the Port's mission statement.
- The proposed project will create a wetland mitigation bank that produces revenue by offering the business community and government agencies the opportunity to purchase predeveloped wetland mitigation credits to mitigate project impacts on wetland habitat.
- The proposed project will enhance ecological functions at the Bank Parcel by providing forage and nesting habitat for native bird species and habitat for native fish species while also creating additional environmental co-benefits such as, but not limited to, carbon sequestration, nutrient cycling, and water quality filtration.
- The proposed project will increase employment opportunities within the region by providing approximately 36 temporary jobs during a 17-month construction period for the wetland mitigation bank.
- Any future commercial development on Parcels A, B, and C would increase employment opportunities in the area by generating temporary construction jobs, as well as long-term jobs.
- The proposed project will stimulate economic growth for the District, City of Imperial Beach, and City of San Diego and will develop economically feasible land uses in the project area.
- The proposed project will reduce the chance and scale of flooding within the surrounding off-site area through the Bank Parcel under the existing condition by designing greater capacity to contain stormwater and coastal waters within the Bank Parcel.
- The proposed project will incorporate the District-owned Bank Parcel (Parcel A, B, and C) into the PMP and assign a land use designation compliant with the Port Act and California Coastal Act.
- The proposed project will increase the District's ability to attract new business and stay competitive.
- The proposed project will maintain and promote the District's long-standing commitment to public access to the waterfront by permitting a variety of visitor-serving uses.
- The proposed project will increase the amount of rent the District may receive as a result of new businesses, tenants, and/or lease renewals.
- The proposed project will provide a benefit to the community by incorporating energy conservation and sustainability features into its design and construction that will provide energy and water efficiency as required by Title 24 of the California Code of Building Regulations.
- Although the proposed project cannot mitigate the unavoidable environmental impacts to a level below significant, the proposed project will implement design features and mitigation measures intended to minimize, to the extent feasible, the potential direct and cumulative

impacts related to GHG emissions, noise, and transportation associated with the proposed project, as set forth in the MMRP.

9.3 Conclusion

The District has weighed the benefits of the project against the project's potential unavoidable, significant environmental risks in determining whether to approve the project. After balancing the specific economic, legal, social, technological, and other benefits of the project, the Board has determined that the specific benefits identified outweigh the significant unavoidable environmental impacts of the project. Each benefit, as well as the fulfillment of the objectives of the approved project, as stated herein, is determined to be a separate and independent basis for overriding the unavoidable significant environmental impacts identified above. Therefore, for the above reasons, the District finds that the project's benefits outweigh the potentially significant unavoidable environmental impacts.

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10 References

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DRAFT

RESOLUTION XXXX

RESOLUTION APPROVING THE PORT MASTER PLAN AMENDMENT FOR THE WETLAND MITIGATION BANK, AND DIRECTING THE FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION

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 Project Site is comprised of approximately 95 acres (inclusive of the Bank Parcel and Parcels A, B, and C), located at the southernmost portion of San Diego Bay, within the limits of the City of San Diego and adjacent to Imperial Beach; and

WHEREAS, the Project Site historically supported open space and wetland habitats until at least 1870, when salt evaporation and extraction industry began operations in south San Diego Bay; and

WHEREAS, the Project Site was purchased by the District in 1998 from Western Salt Company as part of a 1,400-acre land acquisition; and

WHEREAS, after the San Diego County Regional Airport Authority became a separate agency from the District in 2003, the District retained ownership rights to the Project Site, as provided in the SB 1896 (2002), with the intent of utilizing the Project Site for future development, subject to consistency with the Public Trust Doctrine; and

WHEREAS, the Bank Parcel (83.5 acres) which includes the wetland mitigation bank and the surrounding berms and portions of Nestor Creek and the Otay River Tributary, as well as Parcels A (2.7 acres), B (1 acre), and C (8 acres) are located on District-owned property and are currently not incorporated into the PMP; and

WHEREAS, an Environmental Impact Report (EIR) was prepared to evaluate potential impacts associated with the EIR Project which includes (1) incorporating the Bank Parcel into the Port Master Plan (PMP) and assigning a “wetlands” land use designation, as well as creating a wetland mitigation bank within the Bank Parcel, and (2) incorporating Parcels A, B, and C into the PMP and assigning a “commercial recreation” land use designation; and

WHEREAS, a 76.5 acre wetland mitigation bank is proposed within the Bank Parcel, which involves the creation, restoration, and on-going maintenance and monitoring of tidal wetland habitat and upland buffer habitat; and

WHEREAS, the wetland mitigation bank is being designed to be consistent with the wetlands and habitat that are proposed to be created by the Otay River Estuary Restoration Plan Project, with similar goals and objectives to protect, preserve, and facilitate establishment of wetland habitat to support wildlife species; and

WHEREAS, the EIR Project would expand valuable wetland habitat adjacent to the San Diego Bay National Wildlife Refuge, providing essential wetland functions, improved water quality, storm surge, and flood protection services for the adjacent community; and

WHEREAS, the wetland vegetation would act as attractors for local wildlife, and the overall wetland would increase other values, including providing habitat for native fish and birds to spawn and breed; resulting in indirect benefits for local bird watching and fishing, as well as providing habitat to increase biodiversity and support diverse wildlife populations and community assemblages within San Diego Bay and across coastal Southern California; and

WHEREAS, the wetland mitigation bank is designed to be a self-sustaining wetlands/marsh habitat; and

WHEREAS, implementation of the mitigation bank would allow the District to establish a mitigation credit program that could compensate for future impacts from other public and private development projects under Section 404 of the Clean Water Act, the California Coastal Act, the Porter Cologne Water Quality Control Act, and the California Eelgrass Mitigation Policy; and

WHEREAS, the mitigation credits proposed would be for the following: high marsh, mid marsh, low marsh, intertidal mudflat, transitional habitat, and subtidal eelgrass habitats; and

WHEREAS, the wetland mitigation bank would also provide an economic benefit to the City of Imperial Beach and Council District 8 of the City of San Diego; and

WHEREAS, net revenue generated from the Project Site, after construction, operational costs and expenses, and a reasonable rate of return to the District, would be equally divided between two sub-funds for designated projects in the City of Imperial Beach and the adjacent portion of the City of San Diego's City Council District 8; and

WHEREAS, the PMP provides the official planning policies, consistent with a general statewide purpose, for the physical development of the tidelands and submerged lands conveyed and granted in trust to the District; and

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WHEREAS, the PMPA is the first discretionary step toward the establishment of a wetland mitigation bank at the Bank Parcel, including the creation, restoration, and ongoing maintenance and monitoring of tidal wetland habitat and upland buffer habitat; and

WHEREAS, the Bank Parcel is not currently in the PMP, and therefore, does not currently have a land use designation; and

WHEREAS, a PMPA is proposed to Planning District 9: South Bay Salt Lands to incorporate the creation of the mitigation bank, as well as assign a land use designation of "wetlands" to the Bank Parcel; and

WHEREAS, if adopted by the Board of Port Commissioners (Board) and certified by the California Coastal Commission (CCC), the PMPA would allow the District to issue a non-appealable CDP for the construction, establishment, and long-term maintenance of the mitigation bank; and

WHEREAS, a Notice of Completion and Public Hearing for the PMPA was published Wednesday, March 10, 2021 in the San Diego Daily Transcript and Coronado Eagle, in accordance with Section 30712 of the California Coastal Act, as well as by mail and email to members of the public, organizations, and governmental agencies to provide notice of the competition of the draft PMPA and 30-day advance notice of public hearing before the Board to consider the draft PMPA for adoption; and

WHEREAS, pursuant to the California Coastal Act, a public hearing on the draft PMPA was conducted at the Board meeting on April 13, 2021; and

WHEREAS, at this time staff recommends only proceeding with incorporating the Bank Parcel, and not Parcels A, B and C, into the PMP; and

WHEREAS, staff recommends the Board adopt a resolution approving the PMPA and direct staff to file the draft PMPA with the CCC for certification; and

WHEREAS, if the draft PMPA is approved by the Board, staff will transmit the draft PMPA application to the CCC for consideration at a future CCC meeting.

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

- That the Board finds that the PMPA pertaining to the Wetland Mitigation Bank at Pond 20, on file in the office of the District Clerk as Document No. _____, is approved was fully analyzed and is approved.

- That the Executive Director or his designated representative is hereby authorized and directed to transmit this PMPA and all relevant information to the California Coastal Commission for its review and

certification pursuant to Public Resources Code Section 30714.

- That the Executive Director or his designated representative is hereby authorized to amend the PMPA application prior to the California Coastal Commission's certification; provided, however, that the PMPA, as certified by the California Coastal Commission, shall be presented to the Board for its final approval at a subsequent date.

- That consistent with Public Resources Code Sections 30714 and 30716, and California Code of Regulations Title 14, Section 13632(e), the PMPA shall not be effective until: (a) the California Coastal Commission certifies the PMPA; (b) the Board adopts the PMPA as certified by the California Coastal Commission; and (c) the California Coastal Commission has received notice of such Board action and accepts the same as consistent with its certification.

BE IT FURTHER RESOLVED, the Board also hereby finds that the Board's action complies with Section 87 of the Port Act. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board actions are consistent with the Public Trust Doctrine.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

_____
By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of April 2021, by the following vote:

DRAFT

RESOLUTION 20xx-xxx

RESOLUTION AMENDING BPC POLICY NO. 774, THE POND 20 ECONOMIC DEVELOPMENT FUND, TO INCLUDE PARCEL B, A ONE ACRE PARCEL, AND FOR MINOR CLARIFYING REVISIONS

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 1, (Port Act); and

WHEREAS, Section 21 of the Port Act authorizes the Board of Port Commissioners (BPC) to pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, on November 17, 2015, by Resolution #2015-151, the BPC adopted BPC Policy No. 774 to establish a Pond 20 Economic Development Fund (EDF); and

WHEREAS, net revenue generated from the Bank Parcel and Parcels A, B, and C after construction, operational costs, expenses, and a reasonable rate of return to the District, would be directed into the Pond 20 EDF; and

WHEREAS, net revenue would be deposited in the EDF and evenly divided into sub-funds for projects that generate jobs or economic benefit, or create a public improvement in the City of Imperial Beach and the San Diego City Council District 8, which are consistent with the Port Act and also accomplish economic development and public improvement; and

WHEREAS, some mitigation credits may be used directly by the District, as opposed to being sold, and would not generate revenue under the Pond 20 EDF; and

WHEREAS, a portion of Parcel B was under a long-term lease when the District acquired the property and since the approval of BPC Policy No. 774, the lease has ended, and the site is currently vacant; and

WHEREAS, the proposed revisions to BPC Policy No. 774 include updated acreages based on surveys conducted during the EIR process, and minor revisions to clarify the potential use of Parcels A, B, and C, which are for revenue generating uses, to the extent feasible.

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

That BPC (Board of Port Commissioners) Policy No. 774 – Economic Development Fund (EDF), as amended, is hereby adopted.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

_____
By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of April 2021, by the following vote:

Wetland Mitigation Bank at Pond 20 and Port Master Plan Amendment

April 13, 2021
Agenda Item No. 2021-0048

PORT of SAN DIEGO

Recommended Actions

WETLAND MITIGATION BANK AT POND 20 AND PORT MASTER PLAN AMENDMENT:

A. PRESENTATION AND DIRECTION TO STAFF ON WETLAND MITIGATION BANK AT POND 20 AND PORT MASTER PLAN AMENDMENT FINAL ENVIRONMENTAL IMPACT REPORT AND/OR PORT MASTER PLAN AMENDMENT;

B. ADOPT RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING THE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING THE FILING OF THE NOTICE OF DETERMINATION FOR WETLAND MITIGATION BANK AT POND 20 AND PORT MASTER PLAN AMENDMENT;

C. CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION APPROVING THE PORT MASTER PLAN AMENDMENT FOR THE WETLAND MITIGATION BANK, AND DIRECTING THE FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION;

D. RESOLUTION AMENDING BPC POLICY NO. 774, THE POND 20 ECONOMIC DEVELOPMENT FUND, TO INCLUDE PARCEL B, A ONE ACRE PARCEL, AND FOR MINOR CLARIFYING REVISIONS.

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The Opportunity

- Create the largest coastal wetland mitigation bank in southern California
- Future catalyst for the expansion of a mitigation bank network
- Win for the environment, community, and the economy

Policy Alignment

Protecting and Preserving Natural Landscapes and Seascapes

✓ Federal

- 30 by 30 Conservation Goal (Executive Order on Tackling the Climate Crisis at Home and Abroad *Sec. 216(a)*)

✓ State

- 30 by 30 Plan (Executive Order N-82-20)
- Senate Bill 1: California Sea Level Rise Mitigation and Adaptation Act of 2021 (Atkins)

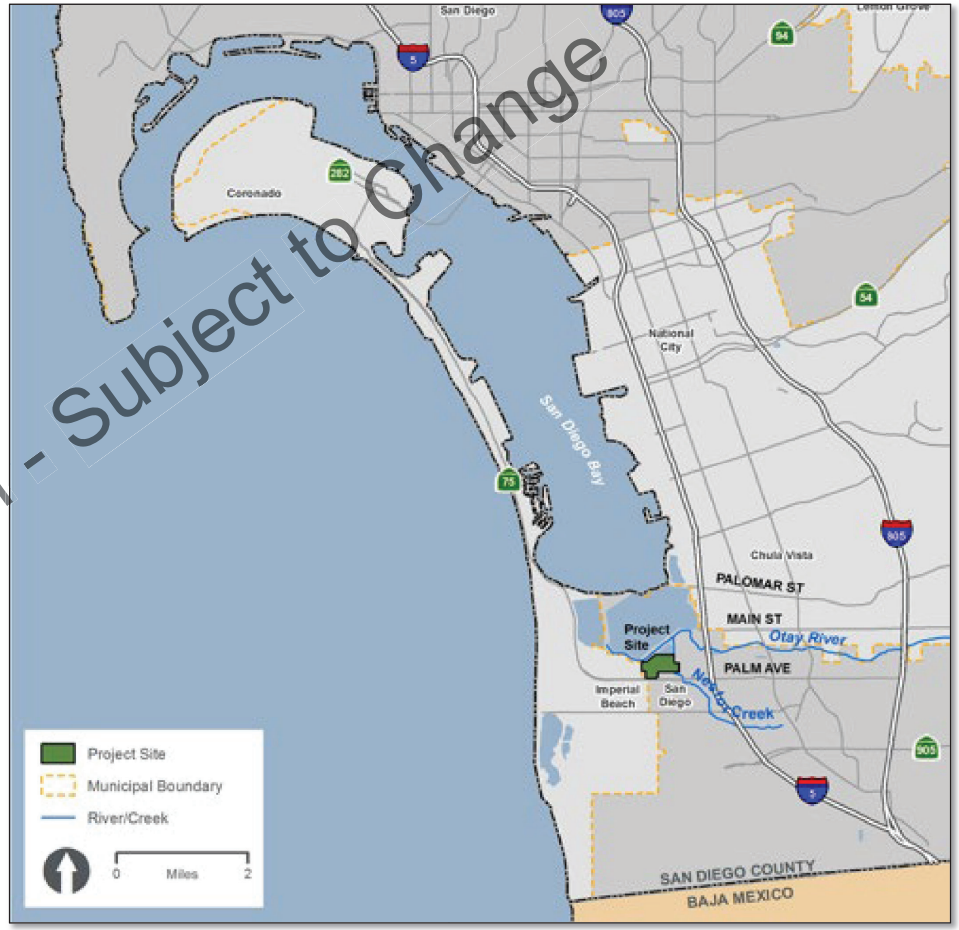
✓ Regional

- County of San Diego Regional Sustainability Plan

And More…

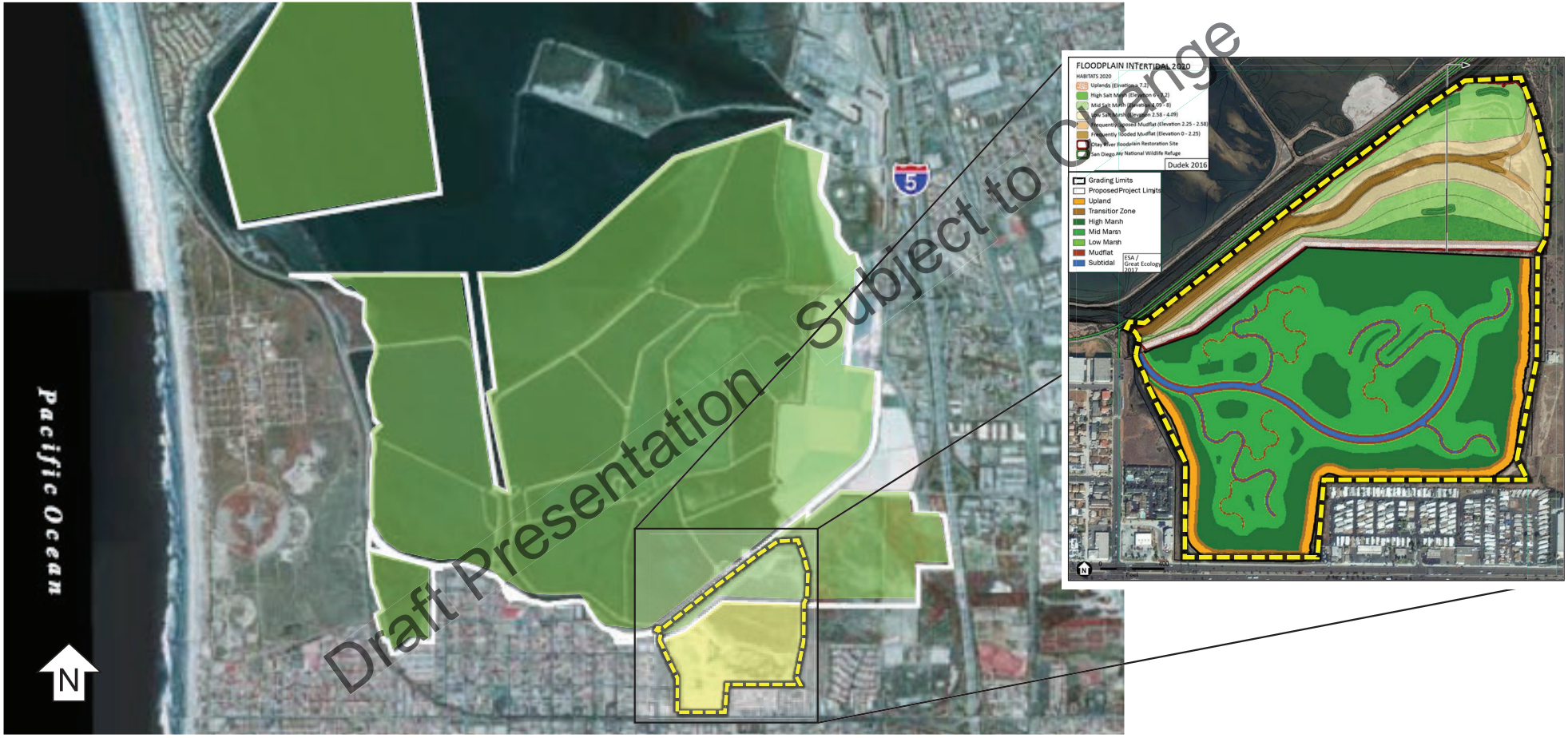
Project Location and Background

- Located in south San Diego Bay in the city of San Diego, adjacent to Imperial Beach, and directly south of the USFWS Refuge
- Pond 20 was formerly an operational salt evaporation pond for the Western Salt Company
- Purchased by the District in 1998 as part of a 1,400 acre land acquisition
  - The majority of the land was transferred to State Lands to create the USFWS Refuge as part of mitigation requirements for the SDIA terminal 2 expansion
- Remaining 95-acres retained by the District for future development



Mitigation Bank

Conceptual Restoration Plan for Pond 20



South San Diego Bay Unit Refuge Boundary

Project Components

CEQA Guideline Requirements

Public Review of Draft EIR

- CEQA Guidelines §15087
- 47-day public comment period
- August 20, 2020 – October 5, 2020
- 12 letters received

CEQA Resource Areas

Environmental Issue Areas Found - No Impact or a Less Than Significant Impact

- Agricultural and Forestry Resources
- Air Quality
- Land Use and Planning
- Mineral Resources
- Population and Housing
- Public Services
- Recreation
- Wildfire

CEQA Resource Areas

Environmental Issue Areas Found to be Less Than Significant with Mitigation

- Aesthetics
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Tribal Cultural Resources
- Utilities and Service Systems

Environmental Issue Areas Found to be Significant and Unavoidable

- GHG Emissions (program level exceedance of County emission thresholds)
- Noise (program level short term construction exceedance of City of San Diego noise threshold)
- Transportation (program level VMT generation in exceedance of threshold for retail use); and
- Cumulative impacts related to GHG Emissions and Transportation

Environmental Impact Report

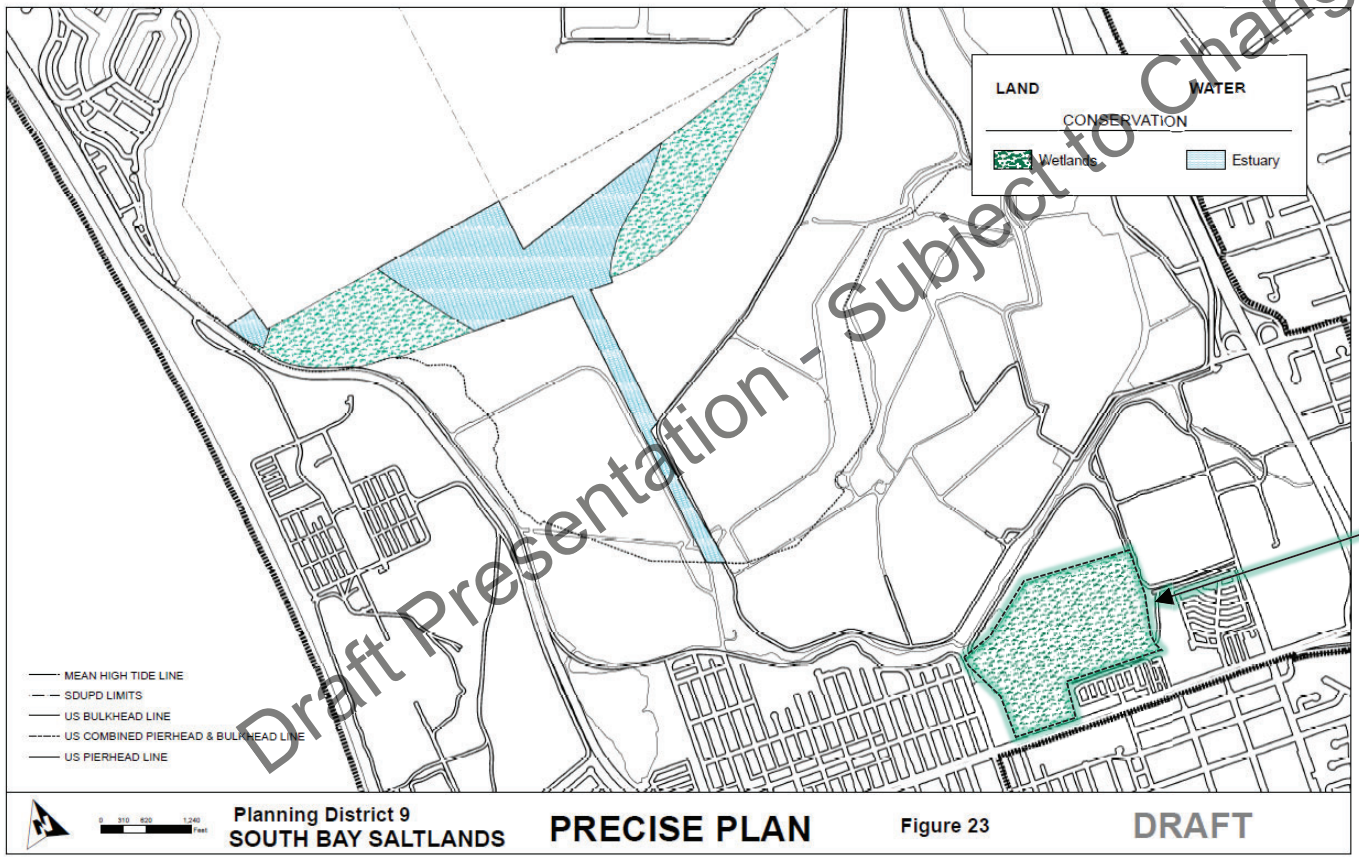
- Findings of Fact
- Statement of Overriding Considerations
  - Balanced Unavoidable Impacts against Project Benefits

Project Alternatives

- No Project/No Wetland Mitigation Bank or PMPA Alternative
- Wetland Mitigation Bank and No Commercial Development on Parcels A, B, and C
- Wetland Mitigation Bank, Commercial Recreation on Parcels B and C, and Open Space on Parcel A

Proposed Port Master Plan Amendment

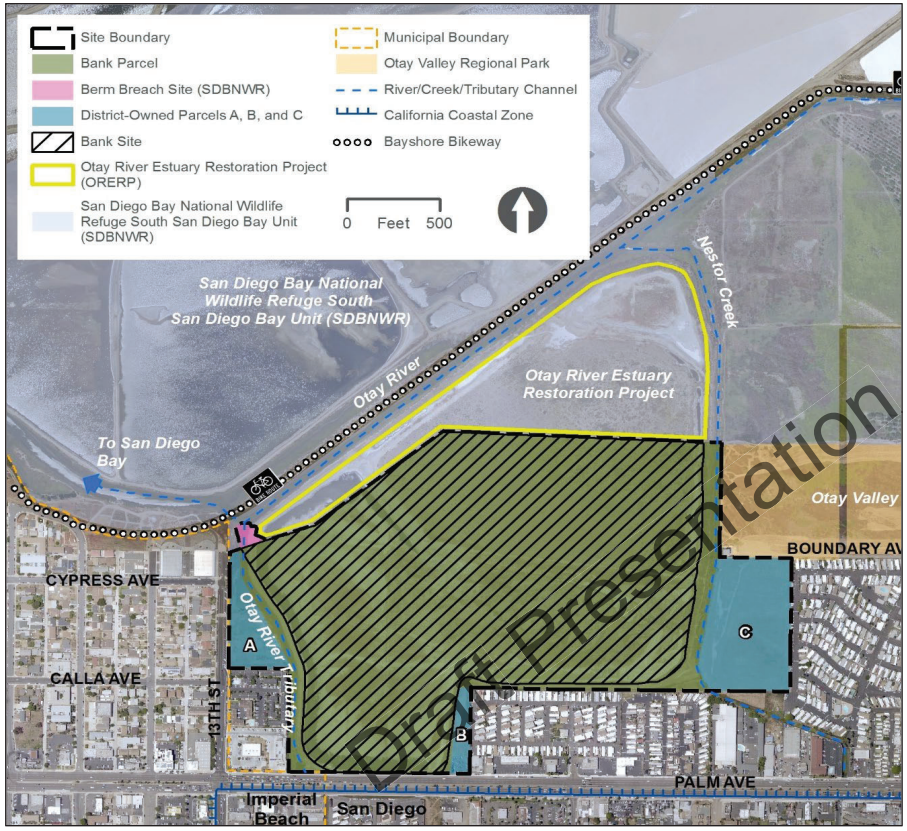
South Bay Salt Lands: Planning District 9



Draft Presentation - Subject to Change

Bank Parcel proposed to be incorporated into the PMP

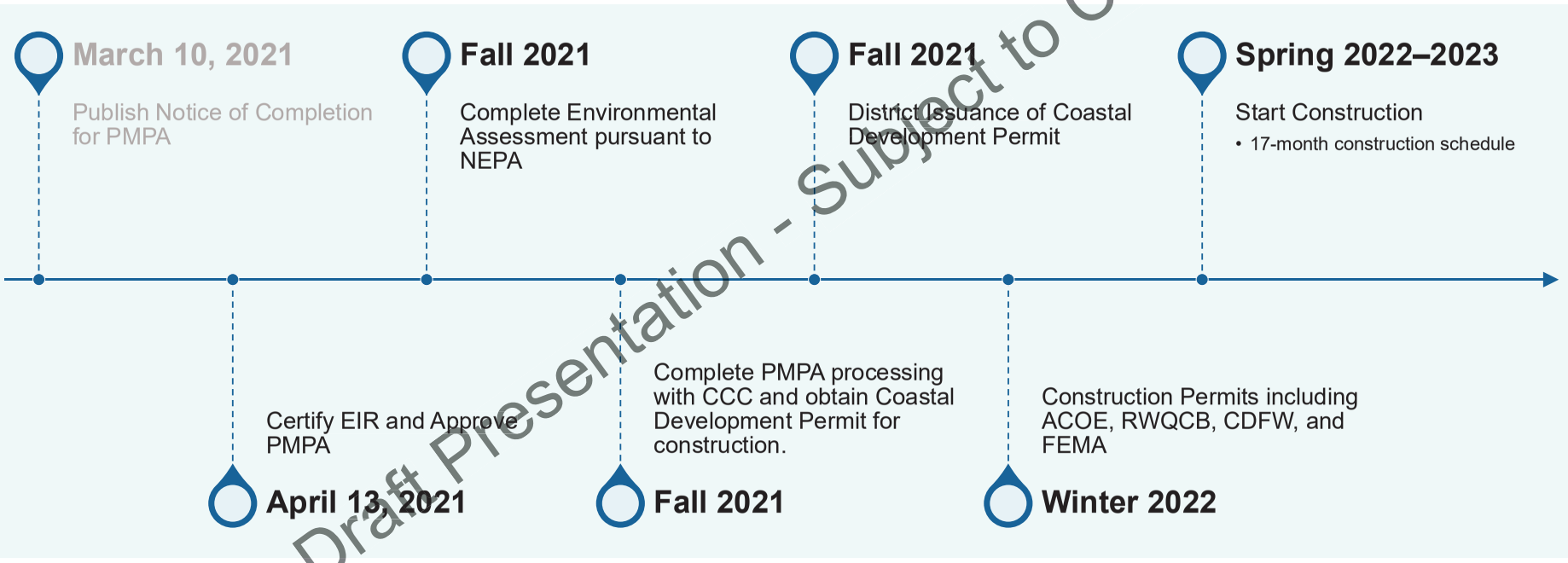
Updates to BPC Policy NO. 774



AMENDMENT REVISIONS

- **Inclusion of Parcel B**. This parcel was under a long-term lease when the District acquired the property. Since the approval of BPC Policy No. 774, the lease ended and the site is currently vacant. Therefore, minor revisions are required to include the one-acre Parcel B in the EDF.
- **Update Acreages.** Surveys conducted during the EIR process refined acreages.
- **Clarify intended use**. Minor revisions would be made to the map to clarify the intended uses of Parcels A, B, and C are revenue generating uses.

Project Timeline and Next Steps



Project Support

Staff Recommendation

WETLAND MITIGATION BANK AT POND 20 AND PORT MASTER PLAN AMENDMENT:

A. PRESENTATION AND DIRECTION TO STAFF ON WETLAND MITIGATION BANK AT POND 20 AND PORT MASTER PLAN AMENDMENT FINAL ENVIRONMENTAL IMPACT REPORT AND/OR PORT MASTER PLAN AMENDMENT;

B. ADOPT RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING THE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING THE FILING OF THE NOTICE OF DETERMINATION FOR WETLAND MITIGATION BANK AT POND 20 AND PORT MASTER PLAN AMENDMENT;

C. CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION APPROVING THE PORT MASTER PLAN AMENDMENT FOR THE WETLAND MITIGATION BANK, AND DIRECTING THE FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION;

D. RESOLUTION AMENDING BPC POLICY NO. 774, THE POND 20 ECONOMIC DEVELOPMENT FUND, TO INCLUDE PARCEL B, A ONE ACRE PARCEL, AND FOR MINOR CLARIFYING REVISIONS.

Wetland Mitigation Bank at Pond 20 and Port Master Plan Amendment

April 13, 2021
Agenda Item No. 2021-0048

PORT of SAN DIEGO

Back-up Slides

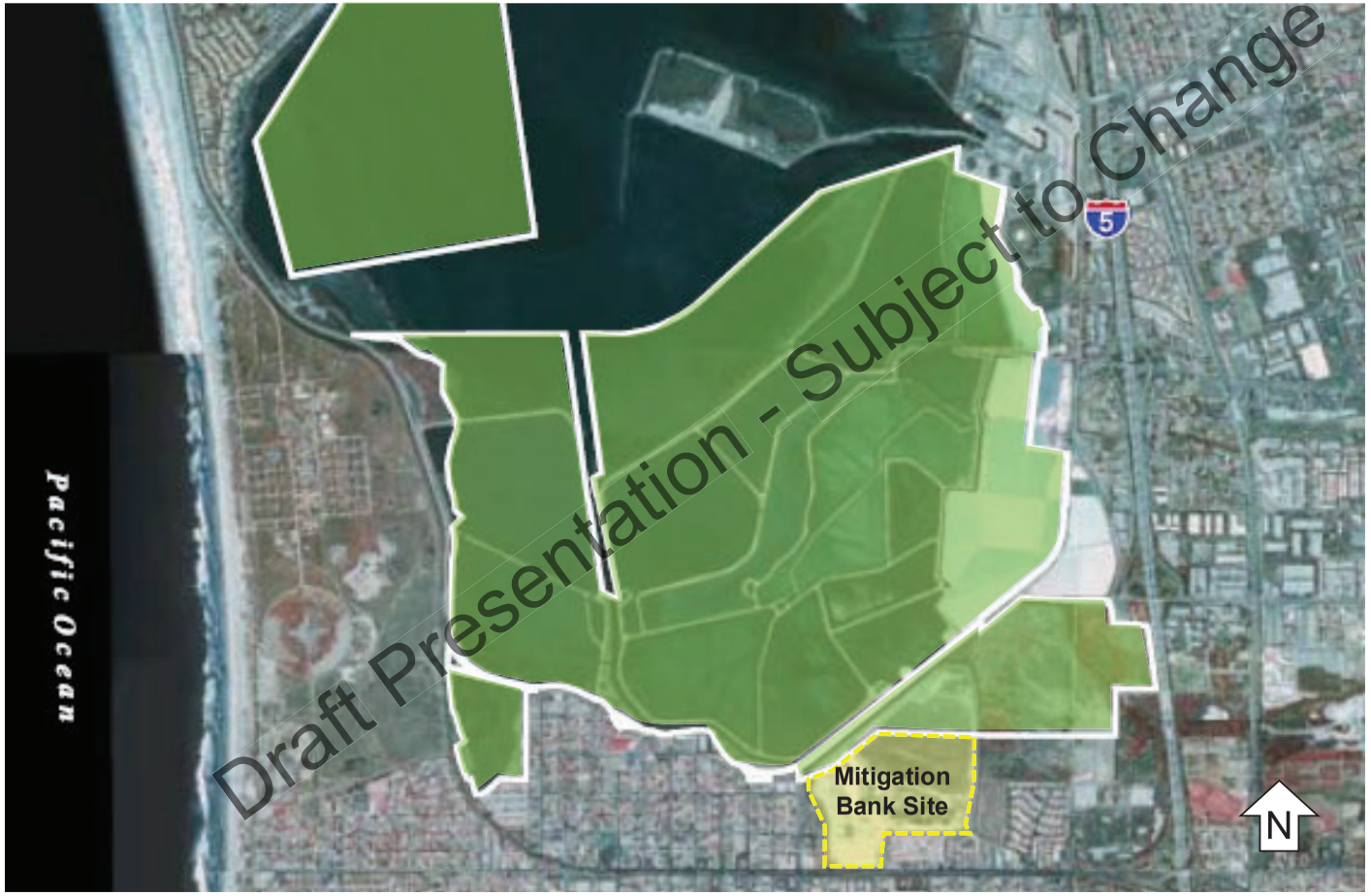
CEQA Guideline Requirements

- **Final Environmental Impact Report**
  - CEQA Guidelines §15089
- **Findings of Fact**
  - CEQA Guidelines §15091
  - Required for projects with significant impacts
- **Statement of Overriding Considerations**
  - CEQA Guidelines §15093
  - Balance Unavoidable Impacts against Project Benefits
  - Required for projects with Significant and Unavoidable impacts
- **Mitigation Monitoring & Reporting Program**
  - CEQA Guidelines §15097

Processing Sequence

- ✓ **Publish Notice of Completion for PMPA** *(published on March 10, 2021)*
- **Present Draft PMPA to BPC** to receive direction to submit draft PMPA to CCC for certification processing *(April 13, 2021)*
- **Staff to submit PMPA to CCC** *(after BPC direction)*
- **CCC processing PMPA** *(after BPC direction)*
- **CCC PMPA certification hearing**
- **BPC accepts certified PMPA** and conditionally issues non-appealable CDP *(CDP is conditioned upon final CCC acceptance of certified PMPA)*
- **CCC PMPA final action**
- **Non-appealable CDP issued**, project can commence

South San Diego Bay Unit Refuge Boundary



Conceptual Restoration Plan for the Wetland Mitigation Bank at Pond 20 and ORERP

San Diego, CA

Source: ESA 2017; Draft EIS for the Otay River Estuary Restoration Project, Dudek 2016

Disclaimers:
a) Illustrative drawing for planning purposes only - not for construction.
b) These drawings are concepts and are likely to evolve.

Wetland Restoration of Salt Pond 20
San Diego Unified Port District

Pond 20 Conceptual Design
Habitat Planview