

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

**W20a**

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original staff report

**ADDENDUM**

**DATE:** May 12, 2015  
**TO:** Commissioners and Interested Parties  
**FROM:** South Central Coast District Staff  
**SUBJECT:** Agenda Item W20a, City of Malibu Local Coastal Program Amendment No. LCP-4-MAL-15-0001-1 (Civic Center Wastewater Treatment Facility), Wednesday, May 13, 2015

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The purpose of this addendum is to attach written correspondence staff received since the publication of the staff report.

**1. Correspondence Received.**

- a) Correspondence has been received from a number of interested parties expressing opposition to the proposed LCP amendment due to concerns regarding the siting of the future wastewater treatment facility. The letters expressed concerns regarding how certain environmental issues were addressed under California Environmental Quality Act (“CEQA”) guidelines, however the letters did not raise issues regarding the amendment’s consistency with the policies and provisions of the City of Malibu Local Coastal Program or any policies of the Coastal Act. Due to the large volume of similar letters received to-date (approx. 29 letters), only a representative sample of letters is attached for reference as **Exhibit 1** of this addendum. However, all letters received are included as part of the administrative record and are available for review in the Commission’s Ventura Office.
- b) A letter dated May 6, 2015 was submitted by Santa Monica – Malibu Unified School District. The letter is attached as **Exhibit 2** of this addendum. The letter requests that the Commission closely scrutinize the approval of the future wastewater treatment facility due to the inadequacies in the Final Environmental Impact Report (EIR) for the future wastewater treatment facility and guidelines contained in CEQA. In response, Commission staff would note that the Commission is not the arbiter of the scope and adequacy of the City’s CEQA process, nor can the Commission determine the scope of an LCP amendment that is submitted by a local government for review and certification. Additionally, the City is exempt from CEQA for its activities related to LCP amendments, pursuant to California Public Resources Code (PRC) Section 21080.9. Further, the letter did not raise issues regarding the amendment’s consistency with the policies and provisions of the City of Malibu Local Coastal Program or any policies of the Coastal Act.
- c) A letter dated May 8, 2015 was submitted by Heal the Bay and Los Angeles Waterkeeper. The letter expressed support to approve the City of Malibu Local Coastal Program Amendment No.

LCP-4-MAL-15-0001-1 with staff's suggested modifications. Additionally, the letter states that Heal the Bay and Los Angeles Waterkeeper have worked with the City of Malibu and Regional Board to set and maintain a timeline to complete the future wastewater treatment facility and achieve compliance with the Septic Prohibition mandates. The letter is attached as **Exhibit 3** of this addendum.

- d) A letter dated May 8, 2015 was submitted by Paul Edelman, Deputy Director of Natural Resources and Planning at Santa Monica Mountains Conservancy. The letter is attached as **Exhibit 4** of this addendum. The letter conveys the Conservancy's concerns with the impact on wildlife movement at the proposed location of the future wastewater treatment facility. The letter states that the Final EIR for the proposed future wastewater treatment facility lacks acknowledgment of the existence of key habitat linkage and wildlife movement and fails to address similar significant impact findings found in the Draft EIR for the proposed Rancho Malibu Hotel on the adjacent parcel. In addition, the letter states that the development of the Rancho Malibu Hotel on the adjacent parcel and the development footprint of the future wastewater treatment facility would severely restrict wildlife movement in this area. Lastly, the letter recommends that the Commission include a suggested modification to the proposed amendment to require for a permanent onsite wildlife corridor and that any fencing should be as close to the development footprint as possible, and should be designed and placed in a manner that will not interfere with wildlife movement through the corridor.

In response to the issue regarding the existence of a key habitat linkage and similar significant impacts findings (described in the Rancho Malibu Hotel Draft EIR) in the City's Final EIR for the future wastewater treatment facility, Commission staff would note that the Commission is not the arbiter of the scope and adequacy of the City's CEQA process. Commission staff does not recommend the addition of the suggested modification proposed by the Conservancy because the Malibu LCP already contains policies and provisions that address the siting of fencing in and adjacent to environmentally sensitive habitat areas (ESHA). Specifically, Local Implementation Plan Section 4.6.3 "Fencing" prohibits fencing or walls within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor, and any development adjacent to, but not within ESHA, may include fencing, if necessary for security, that is limited to the area around the clustered development area. Therefore, the construction of any future wastewater treatment facility is already subject to policies and provisions regarding the siting of fencing to protect ESHA.

- e) A letter dated May 8, 2015 was submitted by Joan C. Lavine, an interested party and Malibu Civic Center residential single family dwelling property owner. The letter expresses opposition to the proposed LCP amendment and some of the major issues stated are: 1) the installation of a Malibu Civic Center sewage plant is environmentally and physically enormously hazardous; 2) staff suggested modification requiring plumbing for residential properties to receive recycled water are unfunded and the Commission lacks authority over "recycled water" regulation and use, and 3) installation of a wastewater treatment facility is unconstitutional. In response, the proposed LCP amendment, if modified as suggested in the staff report, will be in conformance with and adequate to carry out the applicable coastal resource protection policies and provisions of the certified Land Use Plan to ensure the future wastewater treatment facility is constructed in a manner that is not environmentally damaging or physically hazardous. Furthermore, staff's suggested modifications are not regulating the use of recycled water.

Rather, staff's suggested modifications require that the future wastewater treatment facility, which is considered a necessary water supply project, should maximize the use of reclaimed water produced by the facility and, where feasible, to substitute the reclaimed water for potable water use. Furthermore, staff suggested modification requires all new development approved within the Prohibition Area to install all necessary plumbing to allow the development to connect to reclaimed water lines when they are available and to encourage the retrofit of existing development to connect to reclaimed water lines when available. These suggested LIP provisions will ensure that infrastructure is provided in new development that will allow for the use of recycled water at such time as it is available and for allowable uses. These provisions would in no way regulate the appropriate use of recycled water. In addition, the letter states that the suggested modifications proposed by staff are significantly growth-inducing and in violation with the City of Malibu LCP and the Coastal Act. As described within Section IV.(B) Consistency Analysis and Findings of the staff report, specifically on page 24, the subject amendment limits the capacity of a future public wastewater treatment facility to be designed in a manner that is not growth inducing, consistent with the City of Malibu LCP.

Although Ms. Lavine alleges broadly that the proceedings and the project are "unconstitutionally confiscatory and violate Takings, Equal Protection and Due Process Clauses of the 5th and 14th Amendments, U.S. Constitution, and Article I, Sections 1, 13, 16 and 19 of the California Constitution," she provides virtually no analysis to explain the basis for these claims. One of the only things she says is "that the notice of these CCC proceedings to amend the City of Malibu LUP/LIP is so grossly, prejudicially inadequate as to fail to meet the Due Process of Law standards required by law." In response, the staff report was sent out well in advance of this hearing and public notice of this hearing was provided as required under Commission regulations. CEQA noticing requirements are separate from the Commission regulations, and are not applicable in this case. Therefore, notice was provided consistent with the Commission's regulations, which have been upheld as adequate. Lastly, at this time, staff is not recommending postponement of this LCP amendment. However, the Commission can grant a continuance of this LCP amendment at its discretion. The letter is attached as **Exhibit 5** of this addendum.

APR 08 2015 BK

April 30, 2015

California Coastal Commission  
South Central Coastal District Office  
89 South California Street, Suite 200  
Ventura, CA 93001-4508

California Coastal Commission  
South Central Coastal District Office

**RE: City of Malibu LCP Amendment No. LCP-4-MAL-15-000-1**

Dear Coastal Commission:

We write to lodge our objections to the City of Malibu's proposal to allow for the Civic Center Wastewater Treatment Facility (CCWWTF) on a property located at 24000 Civic Center Way in the City of Malibu currently zoned Visitor Serving Commercial II and to create an overlay district for the proposed treatment facility with associated development standards (the Project), and to commence an appeal of this action if the California Coastal Commission (the Commission) approves the Project. We support the Coastal Commission Staff's motion to extend the time limit to act upon the City of Malibu's amendment.

We are not opposed to a centralized wastewater treatment facility (WWTF) for central Malibu, but we object to the Project in its current location (24000 Civic Center Way) as approved by the Malibu City Council, and will appeal approval of the Project because the City of Malibu has not adequately addressed the following health, safety, and California Environmental Quality Act ("CEQA") issues:

- 1) Health and safety issues due to handling and storage of hazardous chemicals during operation;
- 2) Health and safety issues relating to diesel exhaust during construction and operation;
- 3) Health and safety issues due to potential of contaminated soils at the construction site;
- 4) Environmental impact on beaches and adjacent Environmentally Sensitive Habitat Area ("ESHA") wetlands area;
- 5) View impact and potential odor impact issues; and
- 6) Inadequate analysis of alternative sites.

The Project will affect, and perhaps endanger, the following groups:

- a) ~400 elementary students at Webster Elementary (public) and Our Lady of Malibu (private) schools;
- b) ~800 parents of students at Webster and Our Lady of Malibu schools;
- c) ~100 staff at Webster and Our Lady of Malibu schools;
- d) >400 residents within <1/4 mile;
- e) A total of 1,700 people – ~20% of Malibu full-time population;
- f) Flora and fauna in the ESHA wetlands area adjacent to the SE boundary of the project;
- g) Marine flora and fauna at Malibu Road beach and offshore.

Building an industrial-scale, municipal wastewater treatment facility (“WWTF”) across the street from the city’s largest elementary school, its highest density residential area, and an ESHA wetlands, raises significant issues of health, safety and environmental protection. **CEQA Guidelines consider any project handling and storing hazardous materials within 1/4 mile of a school to have significant impact.** This specific issue, and other issues relating to the fact that these schools are so closely located to the CCWWTF project site have not been adequately addressed by the City of Malibu to protect the health and welfare of our schoolchildren.

CEQA guidelines are put in place for a reason – to avoid accidents, assure the health and safety of our citizens, and to protect our environment. The City of Malibu has simply ignored the CEQA guideline of restricting handling of hazardous materials within 1/4 mile of schools. This is unacceptable and irresponsible. There is virtually no precedent for such a decision. **A review of the more than 10,000 existing schools in the State of California reveals there are only 7 schools in the entire state that are located within 1/4 mile of a municipal WWTF. None of these schools are as close (<100yds) as the two schools that will be affected by the proposed CCWWTF.**

**There is a high potential for preexisting soil contamination at 24000 Civic Center Way resulting in potential for exposure of the above-mentioned groups to contaminated dust from excavation of an expected 7,771 cubic yards of material during construction.** This issue is barely acknowledged in the City's Phase I EIR analysis. The site has been an industrial-scale septic WWTF since 1988 serving the Malibu Colony Plaza Shopping Center which includes dry cleaners, spas, salons, restaurants, a grocery store and drug store as tenants. Ogden Cleaners has been operating there since 1989 and is listed on the hazardous chemical suspected release list.

Despite knowing that dry cleaners have used and disposed of carcinogenic and hazardous chemicals in their processes over the past 25 years, the City of Malibu has failed to address the potential for soil contamination in their documentation and believe that nothing more than a phase I analysis is necessary at this time. We disagree and have consulted an independent environmental consultant who briefly reviewed the information on the project and determined the likelihood of contamination is nearly 100%. The only question is what contaminants are present, in what concentrations, and whether these pose a serious health risk. This issue is not addressed in either the Geology and Soils or the Hazards and Hazardous Materials sections of the CDP.

**CEQA guidelines state that a project would result in a significant adverse impact if it would handle hazardous materials within 1/4 mile of a school. This clearly is the case. The playground at Webster Elementary is 100 yards away from the CCWWTF site.** While individual chemicals to be used on the site are reported to not be acutely hazardous materials, combinations of them are. Hypochlorite (which is a hazardous chemical and will be stored onsite in volumes ~1000 gallons) plus citric acid (to be stored onsite in amounts ~1000 pounds) **produce chlorine gas – which is the same toxic gas that was used against troops in WWI.** Incidents involving the accidental mixing of hypochlorite and acids have been reported at WWTF across the

country resulting in injuries and evacuations. The City's engineering consultant was not aware of this risk when asked at the Planning Commission meeting in December 15, 2014. The City of Malibu proposes a Hazardous Chemical Business Plan to mitigate this adverse impact and manage these risks. A piece of paper is not adequate to protect the health and welfare of our schoolchildren. The City of Malibu does not even mention this issue in the Hazards and Hazardous Materials Section of the CDP.

Operation of heavy equipment during construction will create an air quality hazard due to **diesel exhaust and particulate matter which may create a cancer risk for the adjacent schoolchildren and residents.** In addition, traffic of diesel trucks delivering chemicals and removing sludge during operations will also create an air quality hazard. The City has failed to consider this air quality impact in their analysis and the CDP.

The 24000 Civic Center Way site is next to Pacific Coast Highway and is approximately 200 yards from the beach at Malibu Road. A drainage tunnel literally at the front gate of the proposed CCWWTF goes under PCH and flows directly to the beach at Malibu Road. City of Malibu planners claim that the project is designed to prevent any spills, chemicals, or waste from leaving the property. Is the engineering design really this bulletproof? If not, **the next place any waste, spill, chemical, or any untreated, partially treated sewage from the CCWWTF site will end up will be the beach on Malibu Road.**

**The construction of the CCWWTF project will threaten the ESHA wetlands area on the southeast corner of the property by eliminating nearly all of the watershed that feeds it.** The CCWWTF site at 24000 Civic Center Way directly abuts a small ESHA wetlands area on the southeast boundary of the project. The CCWWTF project is built directly above, these wetlands and along the ancient Winter Canyon creekbed that is the watershed that sustains the ESHA wetlands. As stated above, the City of Malibu states that the CCWWTF is designed to prevent anything from leaving the site. While this is good to contain spills or accidental releases, this will prevent much of the existing gravity flow runoff that currently sustains these wetlands.

The CCWWTF project primary site at 24000 Civic Center Way has a direct view impact affecting >50 residences and will be seen by the entire population of ~1,700 people outlined above. The City has not taken into consideration this impact and only addressed the impact to scenic viewsheds in the CDP. The City has also not considered the potential odor impacts, which could include Volatile Organic Compounds (VOCs) which are a health hazard. The City reassures everyone that the design and technology used will result in no noticeable odor due to operations in the CDP, but provides little data to support this statement. The City joined some of the interested parties listed above on a tour of the Santa Paula WWTF that employs the same design for air containment and technology for air scrubbing as the plan for the CCWWTF. Upon getting out of our cars in the parking lot of the Santa Paula facility, it was immediately obvious we were at a sewer treatment facility. The smell was unmistakable. The annoyance of the odor is only

part of the problem. These odors likely include VOCs which are also a health risk. Again, this issue has not been adequately addressed by the City in the CDP.

**The City of Malibu has advanced the 24000 Civic Center Way site for the CCWWTF project for one reason only - cost.** It is not acceptable to put our schoolchildren, wetlands, and ocean at risk to save some money. The cost difference for the project to be sited in a more appropriate, safer location is likely less than 20% of the current estimated project cost. Other sites have been considered, but in the City's analysis of alternative sites they have inflated the risks and issues relating to these alternative sites, while minimizing the risks and issues relating to the 24000 Civic Center Way. This analysis has been contrived and misleading at best, borderlining on deliberately inaccurate at worst. Much of the City's argument to reject alternative sites, such as the Wave property, which is not near schools but much closer to the commercial and professional properties that Phase I will first serve, and which is nestled among trees and out of direct view of most of the few homes on the bluffs above, has been based on the claimed benefit of the 24000 Civic Center Way site being on the Winter Canyon groundwater basin which is a separate watershed from the Malibu Valley groundwater basin. But this is irrelevant to the siting decision. The City themselves have stated that >95% of the time the treated water will be reused and/or injected at the injection well sites on Malibu Rd (regardless of where the main WWTF is located). The other <5% of the time, the percolation ponds on site may be used, but this process produces Title 22 quality water that would pose no threat to the Malibu Valley groundwater basin watershed. Perhaps the most egregious example of biased analysis is the discussion that concludes that the view impact of the Wave property is greater than the 24000 Civic Center Way site. There is no defensible logic to this conclusion provided by the City of Malibu in the CDP.

We have provided written and oral comments to the Draft EIR and at the City of Malibu Planning Commission (12/15/14) and City Council (1/12/15) meetings, as well as other Planning Commission meetings during 2014. The City of Malibu has largely ignored or discounted the concerns outlined in this letter. The Coastal Commission should consider these comments and reports as it evaluates the Project.

We urge the Coastal Commission to grant the Staff's request for an extension of time, and we urge the Coastal Commission to consider and evaluate these issues. We believe that a more appropriate site exists in the Malibu Civic Center for this project. Other, more appropriate, sites should be considered for the sake of the health and safety of Malibu's schoolchildren, environment, and neighborhoods. Thank you.

Sincerely,

*Dina Newman*  
*Webster Parent*

April 30, 2015

California Coastal Commission  
South Central Coastal District Office  
89 South California Street, Suite 200  
Ventura, CA 93001-4508

MAY 07 2015

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We urge the Coastal Commission to grant the Staff's request for an extension of time, and we urge the Coastal Commission to consider and evaluate these issues. We believe that a more appropriate site exists in the Malibu Civic Center for this project. Other, more appropriate, sites should be considered for the sake of the health and safety of Malibu's schoolchildren, environment, and neighborhoods. Thank you.

This site should have never been considered, given its proximity to two elementary schools. It needs to be a disregarded site, instead of disregarding the health and safety of Malibu's children. The only acceptable option is to use another site.

City of Malibu  
Concerned residents

Sincerely,

Kathleen Eldridge, PhD  
Concerned parent of a child who attends Webster, and who would be forced to inhale this contaminated dust during construction - just playing in the school yard!  
Please help + protect our children!!

**VISTA PACIFICA TOWNHOMES ASSOCIATION**  
**3601 Vista Pacifica**  
**Malibu, CA 90265**  
**(310) 433-3000**

MAY 07 2015

May 1, 2015

California Coastal Commission  
South Central Coastal District Office  
89 South California Street, Suite 200  
Ventura, CA 93001-4508

**RE: City of Malibu LCP Amendment No. LCP-4-MAL-15-000-1**

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Building an industrial-scale, municipal wastewater treatment facility (“WWTF”) across the street from the city’s largest elementary school, its highest density residential area, and an ESHA wetlands, raises significant issues of health, safety and environmental protection. **CEQA Guidelines consider any project handling and storing hazardous materials within 1/4 mile of a school to have significant impact.** This specific issue, and other issues relating to the fact that these schools are so closely located to the CCWWTF project site have not been adequately addressed by the City of Malibu to protect the health and welfare of our schoolchildren.

CEQA guidelines are put in place for a reason – to avoid accidents, assure the health and safety of our citizens, and to protect our environment. The City of Malibu has simply ignored the CEQA guideline of restricting handling of hazardous materials within 1/4 mile of schools. This is unacceptable and irresponsible. There is virtually no precedent for such a decision. **A review of the more than 10,000 existing schools in the State of California reveals there are only 7 schools in the entire state that are located within 1/4 mile of a municipal WWTF. None of these schools are as close (100yds) as the two schools that will be affected by the proposed CCWWTF.**

**There is a high potential for preexisting soil contamination at 24000 Civic Center Way resulting in potential for exposure of the above-mentioned groups to contaminated dust from excavation of an expected 7,771 cubic yards of material during construction.** This issue is barely acknowledged in the City's Phase I EIR analysis. The site has been an industrial-scale septic WWTF since 1988 serving the Malibu Colony Plaza Shopping Center which includes dry cleaners, spas, salons, restaurants, a grocery store and drug store as tenants. Ogden Cleaners has been operating there since 1989 and is listed on the hazardous chemical suspected release list.

Despite knowing that dry cleaners have used and disposed of carcinogenic and hazardous chemicals in their processes over the past 25 years, the City of Malibu has failed to address the potential for soil contamination in their documentation and believe that nothing more than a phase I analysis is necessary at this time. We disagree and have consulted an independent environmental consultant who briefly reviewed the information on the project and determined the likelihood of contamination is nearly 100%. The only question is what contaminants are present, in what concentrations, and whether these pose a serious health risk. This issue is not addressed in either the Geology and Soils or the Hazards and Hazardous Materials sections of the CDP.

**CEQA guidelines state that a project would result in a significant adverse impact if it would handle hazardous materials within 1/4 mile of a school. This clearly is the case. The playground at Webster Elementary is 100 yards away from the CCWWTF site.** While individual chemicals to be used on the site are reported to not be acutely hazardous materials, combinations of them are. Hypochlorite (which is a hazardous chemical and will be stored onsite in volumes ~1000 gallons) plus citric acid (to be stored onsite in amounts ~1000 pounds) **produce chlorine gas – which is the same toxic gas that was used against troops in WWI.** Incidents involving the accidental mixing of hypochlorite and acids have been reported at WWTF across the country resulting in injuries and evacuations. The City's engineering consultant was not aware of this risk when asked at the Planning Commission meeting in December 15, 2014. The City of Malibu proposes a Hazardous Chemical Business Plan to mitigate this adverse impact and manage these risks. A piece of paper is not adequate to protect the health and welfare of our schoolchildren. The City of Malibu does not even mention this issue in the Hazards and Hazardous Materials Section of the CDP.

Operation of heavy equipment during construction will create an air quality hazard due to **diesel exhaust and particulate matter which may create a cancer risk for the adjacent schoolchildren and residents.** In addition, traffic of diesel trucks delivering chemicals and removing sludge during operations will also create an air quality hazard. The City has failed to consider this air quality impact in their analysis and the CDP.

The 24000 Civic Center Way site is next to Pacific Coast Highway and is approximately 200 yards from the beach at Malibu Road. A drainage tunnel literally at the front gate of the proposed CCWWTF goes under PCH and flows directly to the beach at Malibu Road. City of Malibu planners claim that the project is designed to prevent any spills, chemicals, or waste from leaving the property. Is the engineering design really this bulletproof? If not, **the next place any waste, spill, chemical, or any untreated, partially treated sewage from the CCWWTF site will end up will be the beach on Malibu Road.**


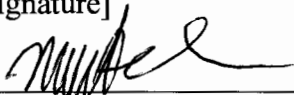
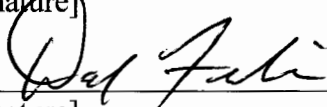
**The construction of the CCWWTF project will threaten the ESHA wetlands area on the southeast corner of the property by eliminating nearly all of the watershed that feeds it.** The CCWWTF site at 24000 Civic Center Way directly abuts a small ESHA wetlands area on the southeast boundary of the project. The CCWWTF project is built directly above, these wetlands and along the ancient Winter Canyon creekbed that is the watershed that sustains the ESHA wetlands. As stated above, the City of Malibu states that the CCWWTF is designed to prevent anything from leaving the site. While this is good to contain spills or accidental releases, this will prevent much of the existing gravity flow runoff that currently sustains these wetlands.

The CCWWTF project primary site at 24000 Civic Center Way has a direct view impact affecting 50 residences and will be seen by the entire population of ~1,700 people outlined above. The City has not taken into consideration this impact and only addressed the impact to scenic viewsheds in the CDP. The City has also not considered the potential odor impacts, which could include Volatile Organic Compounds (VOCs) which are a health hazard. The City reassures everyone that the design and technology used will result in no noticeable odor due to operations in the CDP, but provides little data to support this statement. The City joined some of the interested parties listed above on a tour of the Santa Paula WWTF that employs the same design for air containment and technology for air scrubbing as the plan for the CCWWTF. Upon getting out of our cars in the parking lot of the Santa Paula facility, it was immediately obvious we were at a sewer treatment facility. The smell was unmistakable. The annoyance of the odor is only part of the problem. These odors likely include VOCs which are also a health risk. Again, this issue has not been adequately addressed by the City in the CDP.

**The City of Malibu has advanced the 24000 Civic Center Way site for the CCWWTF project for one reason only - cost.** It is not acceptable to put our schoolchildren, wetlands, and ocean at risk to save some money. The cost difference for the project to be sited in a more appropriate, safer location is likely less than 20% of the current estimated project cost. Other sites have been considered, but in the City's analysis of alternative sites they have inflated the risks and issues relating to these alternative sites, while minimizing the risks and issues relating to the 24000 Civic Center Way. This analysis has been contrived and misleading at best, borderlining on deliberately inaccurate at worst. Much of the City's argument to reject alternative sites, such as the Wave property, which is not near schools but much closer to the commercial and professional properties that Phase I will first serve, and which is nestled among trees and out of direct view of most of the few homes on the bluffs above, has been based on the claimed benefit of the 24000 Civic Center Way site being on the Winter Canyon groundwater basin which is a separate watershed from the Malibu Valley groundwater basin. But this is irrelevant to the siting decision. The City themselves have stated that 95% of the time the treated water will be reused and/or injected at the injection well sites on Malibu Rd (regardless of where the main WWTF is located). The other 5% of the time, the percolation ponds on site may be used, but this process produces Title 22 quality water that would pose no threat to the Malibu Valley groundwater basin watershed. Perhaps the most egregious example of biased analysis is the discussion that concludes that the view impact of the Wave property is greater than the 24000 Civic Center Way site. There is no defensible logic to this conclusion provided by the City of Malibu in the CDP.

We have provided written and oral comments to the Draft EIR and at the City of Malibu Planning Commission (12/15/14) and City Council (1/12/15) meetings, as well as other Planning Commission meetings during 2014. The City of Malibu has largely ignored or discounted the concerns outlined in this letter. The Coastal Commission should consider these comments and reports as it evaluates the Project.

We urge the Coastal Commission to grant the Staff's request for an extension of time, and we urge the Coastal Commission to consider and evaluate these issues. We believe that a more appropriate site exists in the Malibu Civic Center for this project. Other, more appropriate, sites should be considered for the sake of the health and safety of Malibu's schoolchildren, environment, and neighborhoods. Thank you.

UNIT #1	<u></u> [Signature]	<u>Sarah Newman</u> [Print Name]
UNIT #2	<u>de attached</u> [Signature]	<u>NORM Delgado</u> [Print Name]
UNIT #3	<u>Signed @ #13</u> [Signature]	<u></u> [Print Name]
UNIT #4	<u></u> [Signature]	<u></u> [Print Name]
UNIT #5	<u></u> [Signature]	<u></u> [Print Name]
UNIT #8	<u>Opal Webb</u> [Signature]	<u>Opal Webb</u> [Print Name]
UNIT #7	<u></u> [Signature]	<u></u> [Print Name]
UNIT #6	<u></u> [Signature]	<u>Matt Ingebrigtsen</u> [Print Name]
UNIT #9	<u>J. Mills <sup>Barbara</sup> mills</u> [Signature]	<u>J. Mills Barbara mills</u> [Print Name]
UNIT #10	<u></u> [Signature]	<u>David Friedman</u> [Print Name]



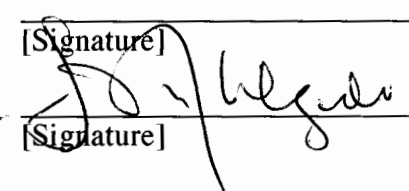
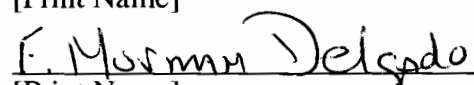
UNIT #11	<u>Edward Gonzalez</u> [Signature]	<u>Edward Gonzalez</u> [Print Name]
UNIT #12	<u>[Signature]</u> [Signature]	<u>Olivia O'Neil</u> [Print Name]
UNIT #13	<u>Mary Ann N Fishburn</u> [Signature]	<u>Mary Ann N Fishburn</u> [Print Name]
UNIT #14	<u>[Signature]</u> [Signature]	<u>Anna Rozicka</u> [Print Name]
UNIT #15	<u>Lois Lyons</u> [Signature]	<u>Lois Lyons</u> [Print Name]
UNIT #16	<u>(Via email)</u> [Signature]	<u>Brenda</u> [Print Name]
UNIT #17	<u>_____</u> [Signature]	<u>_____</u> [Print Name]

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California Coastal Commission  
 May 1, 2015  
 Page Five


We have provided written and oral comments to the Draft EIR and at the City of Malibu Planning Commission (12/15/14) and City Council (1/12/15) meetings, as well as other Planning Commission meetings during 2014. The City of Malibu has largely ignored or discounted the concerns outlined in this letter. The Coastal Commission should consider these comments and reports as it evaluates the Project.

We urge the Coastal Commission to grant the Staff's request for an extension of time, and we urge the Coastal Commission to consider and evaluate these issues. We believe that a more appropriate site exists in the Malibu Civic Center for this project. Other, more appropriate, sites should be considered for the sake of the health and safety of Malibu's schoolchildren, environment, and neighborhoods. Thank you.

UNIT #1	_____	_____
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We urge the Coastal Commission to grant the Staff's request for an extension of time, and we urge the Coastal Commission to consider and evaluate these issues. We believe that a more appropriate site exists in the Malibu Civic Center for this project. Other, more appropriate, sites should be considered for the sake of the health and safety of Malibu's schoolchildren, environment, and neighborhoods. Thank you.

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	[Signature]	[Print Name]



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California Coastal Commission  
South Central Coast District

SANTA MONICA - MALIBU UNIFIED SCHOOL DISTRICT

May 6, 2015

California Coastal Commission  
South Central Coastal District Office  
89 South California Street, Suite 200  
Ventura, CA 93001-4508

RE: City of Malibu LCP Amendment No. LCP-4-MAL-15-000-1

To Coastal Commission:

Santa Monica-Malibu Unified School District ("SMMUSD") hereby requests that the California Coastal Commission closely scrutinize the approval of the Malibu Civic Center Wastewater Treatment Facility Project ("CCWWTF") due to apparent inadequacies in the Final Environmental Impact Report ("FEIR") and items contained in The California Environmental Quality Act (CEQA) that are not fully addressed.

The City of Malibu approved the Project and certified its FEIR on January 12, 2015. The Project site is located immediately south of the intersection of Civic Center Way and Vista Pacific in Malibu. SMMUSD's Webster Elementary School (3602 Winter Canyon Road, Malibu, California 90265) is located less than 500 feet to the north. At the January 12, 2015 public hearing held by the Malibu City Council, SMMUSD raised issues concerning the Project, including air quality. Although the Malibu City Council ultimately agreed to conduct air monitoring for Volatile Organic Compounds ("VOCs") prior to construction and after operations begin, nothing was added to require full compliance with the following SCAQMD Rules and CEQA guidelines.

**Rule 1401.1.**

SCAQMD Rule 1401.1 applies in the case of "[a] new facility with a toxic-emitting source that is within 500 feet from the outer boundary of a school...." (Rule 1401.1(d)(1).) The FEIR admits that the Project meets both of these. "The proposed Project would contribute to localized air pollution emissions during construction (short term) and operations (long term)." (FEIR, p. 4-2-17.) "The following sensitive receptors are located on parcels adjacent to or within 500 feet of the proposed wastewater treatment facility and the alignments of the conveyance system (FEIR, p. 4.2-10.) Despite these admissions, Rule 1401.1 is not referenced in the FEIR and no analysis therein demonstrates compliance with this Rule because the cancer risk and hazard indices for students of Webster Elementary School have not been calculated.

**Exhibit 2**  
**City of Malibu**  
**LCP-4-MAL-15-0001-1**  
**May 12, 2015 Addendum**

VOCs monitoring is not enough. Hazardous air emissions are more than just VOCs. Vehicle exhaust from busy traffic corridors (such as Pacific Coast Highway) and fast-food restaurants emitting frying fumes are also included. To properly determine the risk to the Webster Elementary School, the risk assessment must also consider the existing localized ambient air quality. Compliance with Rule 1401.1 is vitally important as the Rule's purpose is "to provide additional health protection to children at schools ... from new ... facilities emitting toxic air contaminants." (Rule 1401.1(a).)

The Project includes emergency standby diesel-fueled generators. (FEIR, p. 3-8.)

SCAQMD Rule 1470(c)(2)(A) imposes the following limitations on the use of emergency standby diesel-fueled engines within 500 feet of a school

**Rule 1470(c)(2)(A)**

- "(i) An engine that is located on school grounds shall not be operated for non-emergency use whenever there is a school sponsored activity; and
- (ii) An engine that is located 100 meters (328 feet) or less from a school shall not be operated for non-emergency use between the hours of 7:30 a.m. and 4:30 p.m. on days when school is in session, until control equipment is in place, when the hours would be between 7:30 a.m. and 3:30 p.m.; and
- (iii) An engine that is located more than 100 meters (328 feet) and less than or equal to 500 feet from a school shall not be operated for non-emergency use between the hours of 7:30 a.m. and 3:30 p.m. on days when school is in session. An engine that emits diesel PM at a rate of 0.01 g/bhp-hr or less is not subject to this restriction."

The FEIR does not mention these limitations nor restrict the use of the backup generators. Rather, the FEIR simply notes, "Emergency power generators are required to be regularly tested...." Rule 1470's limitations need to be fully imposed upon the Project. It is unclear in the FEIR how many backup generators will be used by the Project. If three or more backup generators will be used, the Project must comply with SCAQMD Rule 1472 by preparing and implementing a "Compliance Plan" to reduce diesel particulate matter emissions. The FEIR does not discuss compliance or identify Rule 1472. The close proximity of the Project to Webster Elementary School necessitates the careful analysis and imposition of all the applicable limitations included in the SCAQMD Rules.

The Initial Study Checklist that is set forth in Appendix G of the California Environmental Quality Act ("CEQA") Guidelines requires the analysis of a project that would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or wastes within ¼-mile of an existing or proposed school. Further, under Education Code section 17213, the development of a school site is constrained by potential student and staff exposure to hazardous air emissions that occur within ¼-mile of a school or school building. In order to site a new school or school building, all hazardous air emitters within a ¼-mile of the school or school building must be identified. A school district is then required to make a finding that health risks from these sources would not constitute an actual or potential endangerment to the students or staff. Furthermore, California Department of Education's regulations also require that the same finding for health risk for such hazardous air emitters whether the risk is caused by chronic (i.e., continual) or accidental emissions. (5 Cal. Regs., § 14011(h).) The way to determine what the

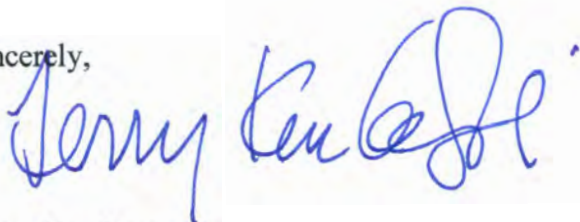
health risk would be to support the finding of acceptable risk is by conducting a Health Risk Assessment (“HRA”).

Although the FEIR analyzes the health risk generally, it does not do so specifically for the students and staff of Webster Elementary School. It relies on generic South Coast Air Quality Management District thresholds rather than specific health thresholds. The only health risk assessment done was for diesel fumes emanating from the Project site on the populous in general. This is inadequate to determine if the Project’s operations would create an unacceptable risk to Webster’s students and staff.

As noted above, the FEIR relies on net emissions to conclude there is not significant air quality impact. This does not answer the question whether the students and staff would be exposed to unacceptable air emissions. The proper analysis requires gross Project emissions together with emissions from all the other hazardous air emitters within ¼-mile of the Project. Such an HRA should be done.

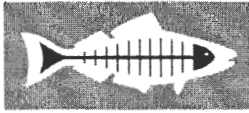
The close proximity of the Project to Webster Elementary School necessitates the careful analysis and imposition of all the applicable limitations included in the SCAQMD Rules and CEQA guidelines. Accordingly, we hope California Coastal Commission will fully scrutinize the Project and ensure full compliance with the afore-mentioned SCAQMD Rules, CEQA guidelines and any others that you deem applicable. We would like to be apprised of any permit applications submitted for the Project and to further collaborate with the California Coastal Commission to ensure the proper protection of the students at Webster Elementary School. My email address is [tkamibayashi@smmusd.org](mailto:tkamibayashi@smmusd.org) and my phone number is (310) 450-8338, extension 70303.

Sincerely,

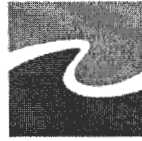


Terry Kamibayashi  
Manager of Maintenance & Construction

cc: Sandy Lyon, Superintendent  
Jan Maez, CBO Associate Superintendent  
Bonnie Blue Planning, Director City of Malibu



Heal the Bay



LOS ANGELES  
WATERKEEPER

MAY 08 2015

May 8, 2015

California Coastal Commission  
South Central Coast Area  
89 South California St., Suite 200  
Ventura, CA 93001  
*Submitted via fax to (805) 585 1800*

**Re: City of Malibu Local Coastal Program Amendment No. LCP-4-MAL-15-0001-1 (Civic Center Wastewater Treatment Facility)**

Dear Coastal Commissioners:

On behalf of Heal the Bay and Los Angeles Waterkeeper ("Waterkeeper"), we submit the following comments to the California Coastal Commission on the City of Malibu LCP Amendment No. LCP-4-MAL-15-000-1 (Civic Center Wastewater Treatment Facility). We ask the Commission to approve the Local Implementation Plan amendment with California Coastal Commission staff suggested modifications. It is critical that the Malibu Civic Center wastewater treatment facility ("WWTF") be constructed without any further delays and septic pollution to the Malibu Creek, Malibu Lagoon and Surfrider Beach be eliminated as required by the Septic Prohibition.

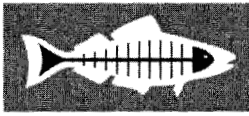
Heal the Bay and Waterkeeper are environmental organizations, with a combined membership of over 18,000, dedicated to protecting and enhancing Southern California coastal waters and watersheds for people and aquatic life. We have been actively involved in water quality protection, enhancement and habitat restoration issues within the City of Malibu ("Malibu" or "City") for decades, including advocating for the elimination of septic discharges in the Civic Center Area. Subsequently the Los Angeles Regional Water Board ("Regional Board") adopted a Septic Prohibition, Resolution No. R4-2009-007, on November 5, 2009 to eliminate bacteria and nutrient pollution discharged from septic systems to the federally-impaired Malibu Creek, Malibu Lagoon and Surfrider Beach.<sup>1</sup> Monitoring data and studies have clearly established that on-site wastewater disposal systems in the Civic Center area are a major source of nutrients and pathogens to Malibu Creek, Lagoon and Surfrider Beach and pose a serious threat to humans and aquatic life.

Following the adoption of the Septic Prohibition, the Regional Board and the City entered into a Memorandum of Understanding ("MOU") in August 2011 setting forth detailed steps and deadlines to comply with the Septic Prohibition. The City committed to designing and constructing the Civic Center WWTF to ensure commercial (Phase I) and residential (Phase II) properties in the prohibition zone are connected to the WWTF by the Septic Prohibition deadlines of November 5, 2015 and November 5, 2019, respectively. For nearly 5 years, our organizations have been working with the City and the Regional Board to set and maintain a clear timeline to complete the Civic Center WWTF and achieve compliance with the Septic Prohibition mandates. Legal requirements aside, the swift construction of the Civic Center WWTF is critical for cleaning up bacteria and nutrient pollution in the Malibu Creek, Malibu Lagoon and Surfrider Beach, all of which have been on the California 303(d) List of Impaired Waters since 1998.<sup>2</sup> The project has experienced significant

<sup>1</sup> Available at: [http://www.waterboards.ca.gov/rwqcb4/press\\_room/announcements/Public-Hearing-Malibu/Malibu\\_Final\\_Resolution\\_Docs/3.%20RESOLUTION.pdf](http://www.waterboards.ca.gov/rwqcb4/press_room/announcements/Public-Hearing-Malibu/Malibu_Final_Resolution_Docs/3.%20RESOLUTION.pdf) (last visited on March 6, 2015).

<sup>2</sup> See California 1998, 2002, 2006 and 2010 303(d) lists of impaired waters available at [http://www.waterboards.ca.gov/rwqcb4/water\\_issues/programs/303d\\_list.shtml](http://www.waterboards.ca.gov/rwqcb4/water_issues/programs/303d_list.shtml) (la

**Exhibit 3**  
**City of Malibu**  
**LCP-4-MAL-15-0001-1**  
**May 12, 2015 Addendum**



Heal the Bay



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delays and on December 4, 2014, the MOU was amended postponing the deadlines for commercial and residential properties to connect to the Civic Center WWTF to June 30, 2017 and November 5, 2022, respectively.

Despite these delays, the City, the Regional Board and stakeholders have been working to ensure CEQA environmental review, waste discharge permits and other legal requirements are satisfied in time to meet the revised MOU deadlines. However, there are a number of additional deadlines and requirements to be met by the City prior to the June 30, 2017 deadline for Phase I properties<sup>3</sup> and any delays in the project approval process, including delays in the LCP amendment approval by the Coastal Commission, will very likely create further delay in the completion of the Civic Center WWTF.

More importantly, the completion of the Civic Center WWTF project in accordance with the schedule set forth in the MOU is critical for restoring beneficial uses to Malibu Creek and Lagoon and coastal waters. The implementation schedule for commercial properties to connect to a centralized wastewater treatment facility is extremely tight – any unforeseen delays in the permitting process will not only significantly impact the City's ability to comply with the MOU and Septic Prohibition provisions, but it will also place public health at risk. Thus, we ask the Commission to approve LCP Amendment No. LCP-4-MAL-15-000-1 with staff suggested modification.

Thank you for this opportunity to provide comments and if you have any questions please contact Heal the Bay at (310) 451-1500 or Los Angeles Waterkeeper at (310) 394-6162.

Sincerely,

Peter Shellenbarger, MESM  
Water Resources Manager  
Heal the Bay

Tatiana Gaur  
Senior Attorney  
Los Angeles Waterkeeper

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<sup>3</sup> Memorandum of Understanding between City of Malibu and Regional Water Quality Control Board, Los Angeles Region and State Water Resources Control Board Regarding Phased Implementation of Basin Plan Amendment Prohibiting On-site Wastewater Disposal Systems in the Malibu Civic Center Area (revised on December 4, 2014) at 4, available at [http://www.waterboards.ca.gov/losangeles/water\\_issues/programs/basin\\_plan/2014/mou/MOU101414\\_clean.pdf](http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/2014/mou/MOU101414_clean.pdf) (last visited on March 6, 2015).



**SANTA MONICA MOUNTAINS CONSERVANCY**

RAMIREZ CANYON PARK  
5750 RAMIREZ CANYON ROAD  
MALIBU, CALIFORNIA 90265  
PHONE (310) 589-3200  
FAX (310) 589-3207  
WWW.SMMC.CA.GOV

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MAY 08 2015

Central Coast District

May 8, 2015

Jack Ainsworth  
Deputy Director  
California Coastal Commission  
89 South California Street, Suite 200  
Ventura, California 93001

**City of Malibu Local Coastal Program Amendment No. LCP-4-MAL-15-0001-1  
(Civic Center Wastewater Treatment Facility)**

Dear Mr. Ainsworth,

The Santa Monica Mountains Conservancy (Conservancy) offers the following comments on the above referenced City of Malibu Local Coastal Program Amendment for the proposed Civic Center Wastewater Treatment Facility project. The Conservancy had commented in a letter dated June 20, 2014 on the Draft Environmental Impact Report (EIR) for the proposed project and emailed City staff additional comments on the Final EIR on December 9, 2014. We feel that our comments were not adequately addressed in both versions of the EIR. To reiterate our previous comments on this project, the Conservancy is primarily concerned with the impact on wildlife movement at the proposed location of the proposed Wastewater Treatment Facility.

The current project must guarantee adequate area for wildlife (e.g., medium-sized mammals) to move through the project site. This site is part of an existing habitat linkage and wildlife movement area that connects the main body of the Santa Monica Mountains to the Malibu Bluffs just south of the project site.

The proposed Rancho Malibu Hotel Project is located on the adjacent parcel to the west of the proposed Wastewater Treatment Facility. The Draft EIR for the proposed Rancho Malibu Hotel Project, published in October 2013 acknowledges the existence of this key habitat linkage and addresses the significant impacts to this linkage due to the proposed hotel development and surrounding future developments. In comparison, the Final EIR for the proposed Wastewater Treatment Facility lacks such acknowledgment and fails to address similar significant impact findings found in the Draft EIR for the proposed Rancho Malibu Hotel. Given the proposed development of the Rancho Malibu Hotel on the adjacent parcel to the west and the development footprint of the proposed Wastewater Treatment Facility, wildlife movement would be severely restricted in this area.

**Exhibit 4  
City of Malibu  
LCP-4-MAL-15-0001-1  
May 12, 2015 Addendum**

City of Malibu Local Coastal Program Amendment No. LCP-4-MAL-15-0001-1  
May 8, 2015  
Page 2

The Conservancy recommends that the Commission include in the suggested modifications to the proposed amendment to the Local Implementation Plan (LIP) component of the Local Coastal Program a requirement for a permanent onsite wildlife corridor. The following modification should be added to the end of Section 3.4.4(C) of the proposed amendment to Chapter 3 of the LIP:

3. Wildlife Corridor. An area on the project site shall be set aside to allow for wildlife movement along the westernmost property line of the project site in a north-south orientation so as to connect the Santa Monica Mountains to the Malibu Bluffs, and should be of a width adequate for medium-sized mammals to pass through. Any fencing should be appressed as close to the development footprint as possible, and should be designed and placed in a manner that will not interfere with wildlife movement through the corridor in any way.

The proposed Wastewater Treatment Facility can be built without significant biological impacts to this habitat linkage, provided that the above-mentioned modification is included in the proposed amendment to Chapter 3 of the LIP component of the Local Coastal Program. We appreciate your consideration of these comments. If you have any questions, please contact me by phone at (310) 589-3200, extension 128, or by email at [edelman@smmc.ca.gov](mailto:edelman@smmc.ca.gov).

Sincerely,



PAUL EDELMAN  
Deputy Director  
Natural Resources and Planning

*From the Desk of Joan C. Lavine*

Attorney at Law  
123 North Hobart Blvd.  
Los Angeles, California 90004, U.S.A.  
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MAY 08 2015

Central East Dist

E-mail addresses: [JCLavine@aol.com](mailto:JCLavine@aol.com); [JoanLavineCallLaw@gmail.com](mailto:JoanLavineCallLaw@gmail.com)

May 8, 2015

California Coastal Commission Chairperson Steve Kinsey and Commission Members  
California Coastal Commission  
South Central Coast Area  
89 South California Street, Suite 200,  
Ventura, CA 93001  
Office Phone: (805) 585-1800  
Filed via email to: [Diana.Venegas@coastal.ca.gov](mailto:Diana.Venegas@coastal.ca.gov)

Attention: California Coast Commission staff members

Re: Comment Letter of Joan C. Lavine, Interested Party and Malibu Civic Center residential, single-family dwelling property owner, directed to the California Coastal Commission (CCC) May 13, 2015, meeting Agenda Item W20a, application of the City of Malibu seeking to amend the City of Malibu Local Coastal Program, Amendment No. LCP-4-MAL-15-0001-1 to the City of Malibu Local Coastal Program

Dear Chairperson Kinsey and Commission Members of the California Coastal Commission:

I respectfully submit my comments directed to the pending California Coastal Commission May 13, 2015, meeting, Agenda Item W20a, application of the City of Malibu seeking to amend the City of Malibu Local Coastal Program, Amendment No. LCP-4-MAL-15-0001-1 to the City of Malibu Local Coastal Program.

I respectfully oppose and object to May 13, 2015, meeting Agenda Item W20a, application of the City of Malibu seeking to amend the City of Malibu Local Coastal Program, Amendment No. LCP-4-MAL-15-0001-1 to the City of Malibu Local Coastal Program.

I urge you to DENY the application and to VOTE NO on it in any form, as submitted by the City of Malibu and/or as revised as proposed by the CCC staff or in any revised form.

I continue to oppose the issuance of permits or granting of authority to proceed with the construction of a City of Malibu Civic Center Waste Treatment Facility. My oppositions are based on my positions that these proceedings and installation of a Waste Treatment Facility are illegal, unconstitutionally confiscatory and violate Takings, Equal Protection and Due Process Clauses of the 5<sup>th</sup> and 14<sup>th</sup> Amendments, U.S. Constitution, and Article I, Sections 1, 13, 16 and 19 of the California Constitution.

**Exhibit 5**  
**City of Malibu**  
**LCP-4-MAL-15-0001-1**  
**May 12, 2015 Addendum**

I object that the notice of these CCC proceedings to amend the City of Malibu LUP/LIP is so grossly, prejudicially inadequate as to fail to meet the Due Process of Law standards required by law. Same denies the interested parties of a reasonable opportunity to be heard and to participate. Mullane v. Central Hanover Bank, 339 U.S. 306, 70 S. Ct. 652, 94 L. Ed. 865(1950). About a one-week notice is insufficient under CEQA, federal and state constitutional law. Federal Clean Water Act regulations under Title 40 CFR, § 25.5 require at least a 30-day notice, served in writing by mail. I received an email notice, dated May 1, 2015, and a hard-copy notice by USPS mail delivery on May 4, 2015. I am prejudiced due to the extremely complex and extensive volume and intricacy of water law, regulations, numerous governmental agencies involved and several lengthy plans, including but not limited to the "Urban Water Management Planning Act" at Water Code, §§ 10610, et seq., the extensive proceedings, regulations, permits and requirements enacted by the California State Water Resources Control Board, and the complexity of CEQA proceeding.

The grounds for my opposition are both substantive and procedural:

1. The installation of a Malibu Civic Center sewage plant is environmentally and physically enormously hazardous.
2. It is growth-inducing in commercial development, and prejudicially, substantially contrary to the City of Malibu General Plan.
3. It has the direct effect of destroying the residential community in the Malibu Civic Center due to its expected very high cost.
4. It would displace thousands of residents without providing relocation funding and facilities as required by federal law under Title 42, United States Codes, § 4600, et seq.
5. The proposals requiring plumbing for residential properties to receive recycled water, as recommended by the CCC staff at Pages 12-13 of the staff report, are unfunded, as required by the California Constitution, Article 13B, Section 6.
6. The California Coastal Commission lacks authority over "recycled water" regulation and use and therefore lacks jurisdiction to regulate same. The California State Legislature delegated authority regarding "recycled water" to the California State Water Resources Control Board (SWRCB), and other State of California agencies, including California Department of Public Health (CDPH), the California Public Utilities Commission (CPUC), and the California Department of Water Resources (CDWR), in the California Urban Water Management Planning Act, codified in California Water Code, Div. 6, Part 2.6, §§ 10610, et seq. Same is located at:  
<http://www.water.ca.gov/urbanwatermanagement/docs/UWMPAct.pdf>

See also the SWRCB General Permit, Paragraph 36, allocating authority and responsibility between the SWRCB, its Regional Boards and the CDPH (California Department of Public Health).

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JOAN C. LAVINE'S COMMENT RE MAY 13, 2015, CCC AGENDA ITEM W20a (Malibu LIP)

7. For all practical purposes, California law prohibits single-family dwelling residential use of “recycled water” or reclaimed water. See below excerpts from the SWRCB General Permit and SWRCB “Recycled Water Policy” webpage.
8. The California State Water Resources Control Board has issued a “General Permit” regarding recycled water use. STATE WATER RESOURCES CONTROL BOARD WATER QUALITY ORDER NO. 2009-0006-DWQ **GENERAL WASTE DISCHARGE REQUIREMENTS FOR LANDSCAPE IRRIGATION USES OF MUNICIPAL RECYCLED WATER (GENERAL PERMIT)** See the SWRCB online posted General Permit at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/water\\_recycling\\_policy/docs/wqo\\_2009\\_0006\\_general\\_permit.pdf](http://www.waterboards.ca.gov/water_issues/programs/water_recycling_policy/docs/wqo_2009_0006_general_permit.pdf)

In the SWRCB General Permit, recycled water use is strictly limited. At page 10 of this SWRCB General Permit, under A. Prohibitions, Point 3, same states:

3. The use of recycled water, pursuant to this General Permit, for individually owned residences other than as described in Finding No. 3 **is prohibited**. (Emphasis added.)

8. The California Urban Water Management Act, codified in California Water Code, § 10610, et seq. requires water suppliers to prepare an “Urban Water Management Plan”. See California Water Code, § 10610.4 (c) online:  
<http://www.water.ca.gov/urbanwatermanagement/docs/UWMPAct.pdf>

Malibu residents and other Malibu consumers are supplied water by the Los Angeles County Public Works water district entitled “Los Angeles County Waterworks, District 29”. They are NOT supplied with water by the City of Malibu. The Los Angeles County Public Works “Los Angeles County Waterworks, District 29” has prepared and enacted an “Urban Water Management Plan”. See same at:  
<http://dpw.lacounty.gov/wwd/web/Documents/2010%20Urban%20Water%20Management%20Plan%20for%20District%20No.%2029%20and%20the%20Marina%20del%20Rey%20Water%20System.pdf>

Los Angeles County Waterworks, District 29, does NOT purchase or acquire “recycled water” for its residential customers in District 29 and the Malibu area.

The Los Angeles County Public Works “Los Angeles County Waterworks, District 29” obtains its water from the Metropolitan Water District of Southern California. The Metropolitan Water District of Southern California in turn, in compliance with Water Code, § 10610.4 (c), also has an “Urban Water Management Plan”. See same at:  
[http://www.mwdh2o.com/mwdh2o/pages/yourwater/RUWMP/RUWMP\\_2010.pdf](http://www.mwdh2o.com/mwdh2o/pages/yourwater/RUWMP/RUWMP_2010.pdf)

Furthermore, the California State Water Resources Board itself has a “recycled water policy”, enacted as **STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2013-0003** “ADOPTION OF AN AMENDMENT TO THE POLICY FOR WATER QUALITY CONTROL FOR RECYCLED WATER CONCERNING MONITORING REQUIREMENTS FOR CONSTITUTENTS OF EMERGING CONCERN.” See same at:

[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2009/rs2009\\_0011.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2009/rs2009_0011.pdf)

See the SWRCB Recycled Water webpage at:

[http://www.waterboards.ca.gov/water\\_issues/programs/water\\_recycling\\_policy/landscape\\_irrigation\\_general\\_permit.shtml](http://www.waterboards.ca.gov/water_issues/programs/water_recycling_policy/landscape_irrigation_general_permit.shtml)

Note the statement on that SWRCB Recycled Water webpage as follows:

**Individually owned residences are not eligible for coverage under the General Permit.** The Regional Water Boards will address individually owned residences on a case-by-case basis. (Emphasis added.)

9. The staff proposed changes are so substantial as to create a substantially different "project" as defined by CEQA and the FEIR and would have such an enormous adverse impact on the environment under CEQA and CEQA Guidelines, are contradictory to the City's General Plan, LUP, LIP and LCP, and would displace a substantial residential population without alternative residential housing and by making affordable housing impossible, that they require that the CEQA proceedings comment periods, hearing and proceedings to be redone, re-opened and re-heard. See the California Supreme Court holding in Laurel Heights v. Regents of the University of California, 6 Cal.4<sup>th</sup> 1112, at 1120, 26 Cal.Rptr.2d 231 (1994):

We conclude that recirculation is only required when the information added to the EIR changes the EIR in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible project alternative or mitigation measure that would clearly reduce such an effect and that the project's proponents have declined to implement.

I also view the staff proposed changes as significantly growth-inducing, particularly commercially growth-inducing, in violation of the City of Malibu General Plan, LUP, LIP, LCP and the California Coastal Act.

I attach hereto and incorporate herein by reference as though fully set forth my comments and objections (body of comments only, exhibits and attachments omitted) I filed in the City of Malibu CEQA proceedings in regard to the installation and operation of a sewage treatment plant in the Malibu Civic Center, which were filed on January 7, 2014, July 28, 2014, December 15, 2014, and January 12, 2015.

JUST VOTE NO on Agenda Item W20a. Thank you for considering my legal analysis.

Respectfully submitted,

JOAN C. LAVINE, Attorney at Law, California State Bar No. 049169

Property Owner in Malibu Civic Center of residential single-family dwelling, Los Angeles County, California, U.S.A.

Friday, May 08, 2015 1:44 PM Page 4 of 5

JOAN C. LAVINE'S COMMENT RE MAY 13, 2015, CCC AGENDA ITEM W20a (Malibu LIP)

Friday, May 08, 2015 2:01:36 PM

ATTACHMENTS – NOTE THAT ANY ATTACHMENTS ARE THE BODIES ONLY OF THOSE COMMENTS, AND THAT ATTACHMENTS TO THEM HAVE BEEN OMITTED IN THIS COMMENT, DATED MAY 8, 2015:

1. Lavine Comment, dated January 7, 2014
2. Lavine Comment, dated July 28, 2014
3. Lavine Comment, dated December 15, 2014
4. Lavine Comment, dated January 12, 2015

*From the Desk of Joan C. Lavine*

Attorney at Law

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E-mail address: [JCLavine@aol.com](mailto:JCLavine@aol.com); [FoodieJoan@gmail.com](mailto:FoodieJoan@gmail.com)

Tuesday, January 7, 2014

Ms. Bonnie Blue, Senior Planner  
Ms. Joyce Parker, Planning Director  
Planning Department  
Members, City of Malibu Planning Commission  
Members, City of Malibu City Council  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265

Re: Preparation of and scoping meeting for a draft CEQA EIR for sewage treatment plant (mailed on 11/21/2013); City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057, comment deadline December 23, 2013, extended to January 7, 2014, 5:30 p.m. PST, continued to January 7, 2014, address to City of Malibu Planner Bonnie Blue (1/7/2014 12:54:16 PM); [bblue@malibucity.org](mailto:bblue@malibucity.org). Mailing address: 23825 Stuart Ranch Road, Malibu, CA. 90265. Scoping meeting: Dec. 11, 2013, 6:30 p.m. PST, at City of Malibu Council Chambers, 23825 Stuart Ranch Road, Malibu, CA 90265.

Dear Ms. Parker, Ms. Blue, Members, of Malibu City Council, and Members, City of Malibu Planning Commission:

I hereby submit my comment regarding the preparation of a (Draft) Environmental Impact Report.

I oppose and object to the construction of the proposed City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057.

1. The separate consideration areas in CEQA, particularly in the CEQA Guidelines Appendix G checklist, and the cumulative effects of the substantial adverse, negative impacts of the City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057, along with other projects pending for approval and/or which are approved are not just significantly adverse. They are catastrophically destructive of the entire Malibu Civic Center residential community.

The cumulative effects of the City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057 and the several major proposed pending development projects, commercial and developer mega-mansions, would be to convert the Malibu Civic Center into a downtown commercial center. To put it another way,

Tuesday, January 07, 2014 12:54 PM Page 1 of 3



this project promotes the destruction of a long-time residential community. I respectfully submit that this effect is contrary to and violates the City of Malibu General Plan.

2. The Malibu Civic Center area is dedicated to residential and recreational use. The City of Malibu Land Use Plan provides for protection of recreational and residential uses, facilities, activities and environment. I object that this proposal therefore undermines, conflicts with, runs counter to and violates the City of Malibu Local Land Use Plan and Coastal Land Use Plan.

The City of Malibu General Plan established Malibu as a rural-style residential community and requires that any commercial uses be local neighborhood-servicing and/or visitor/recreational serving. See City of Malibu General Plan, §§ 1.0, et seq.

City of Malibu General Plan, § I.1 provides in pertinent part:

Malibu has remained a primarily residential community. Commercial areas are limited to small neighborhood serving and visitor serving uses interspersed throughout the City, but located primarily in the Civic Center area and the Point Dume area. (Emphasis added.)

City of Malibu General Plan, § 1.1.2 provides in pertinent part:

The Malibu Land Use Element is designed to provide maximum social, economic and environmental benefits for City residents through planned distribution, location and intensity of land use. (Emphasis added.)

City of Malibu General Plan, § 1.5.5 provides in pertinent part:

The CC (Community Commercial) designation is intended to provide for the resident serving needs of the community similar to the CN designation, but on parcels of land more suitable for concentrated commercial activity. The community commercial category plans for centers that offer a greater depth and range of merchandise in shopping and specialty goods than the neighborhood center although this category may include some of the uses also found in a neighborhood center.

I object that this proposal fails to support, fails to advance, and fails to implement resident-serving uses or needs. This project, alone and cumulatively with the other pending proposed projects for the Malibu Civic Center, would destroy the residential and recreational nature of the Malibu Civic Center.

3. I object to the catastrophic financial burden of \$41 million to \$60 million, and the projected \$500,000 per residential parcel assessment burden, and to the connection and monthly use fees. This is confiscatory taxation and cost-shifting that constitutes seizure of most of the residential properties in the Malibu Civic Center.

4. I object that there has been a lack of funding from the State of California for a State mandated sewer system and treatment facilities.

5. I object to the campaign and goal of coercive, involuntarily obtained funding on the backs of residents and residential property owners by extortious, coercive threats of \$10,000 per day fines and sanctions as felonies under California law unless we tax ourselves up to \$500,000, and perhaps more, to pay for this sewage plant project. I view same as extortion, voter intimidation, and violation of federal and state civil rights.

6. I object that removal of a large portions or all of the residential housing in the Malibu Civic Center will displace at least about 1500 residents from about 400 to 500 dwellings. This will necessitate replacement housing having to be constructed or obtained elsewhere.

I object that this proposal is invidiously discriminatory against residential property owners. Each property and proposed project on it will have the effect of advancing an agenda or set of agendas that will likely destroy or substantially reduce the residential community. It has the substantial adverse effect of displacing and/or making homeless and destitute, several hundred residents, many of whom are seniors without resources to relocate. Replacement housing for up to 1500 residents will likely be required. What provisions will be made to mitigate this housing loss and residents' dislocation?

7. The alternative of not installing such a system should be chosen.

8. Placement of a sewage disposal plant in a residential community as high-profile as the Malibu Civic Center is will have the effect of deteriorating the area.

9. I dispute the safety of groundwater injection as a means of effluent and residue disposal. The proposed means of disposal by injection into the ground appears to be a form of fracking. There is considerable controversy as to whether fracking is generally safe. This fracking means of disposal in the Malibu Civic Center is also troublesome, because shallow faults run through the Malibu Civic Center. Fluid injected into the ground is likely to increase water table levels and to create a stronger likelihood of liquefaction. As well, it is unclear whether the proposed plant can actually process and dispose of the effluent or residue safely.

10. Failure to identify properties to which the septic ban applies and which are required to cease use of their OWTS's and be burdened by installation of a sewer system, sewage/wastewater treatment plant constitutes lack of fair, reasonable or actual notice of the properties included in the ban and burdened and prejudicially violates the rights of the interested parties to due process. It is fundamentally unfair.

11. Lack of adequate notice and an adequate, reasonable opportunity to respond to the DEIR due November/December, 2013, holidays, scheduling of several CEQA and other proceedings related to the Malibu Civic Center, the Malibu Civic Center septic ban and amendment to the Los Angeles Regional Water Basin Plan likewise constitutes lack of fair, reasonable or actual notice of the properties included in the ban and burdened and prejudicially violates the rights of the interested parties to due process. It is fundamentally unfair.

I urge that this project be rejected.

Very truly yours,

Joan Lavine, Owner Malibu Civic Center residential property

Tuesday, January 07, 2014 12:54 PM Page 3 of 3

*From the Desk of Joan C. Lavine*

Attorney at Law

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July 28, 2014

Ms. Bonnie Blue, Senior Planner, [bblue@malibucity.org](mailto:bblue@malibucity.org)

Ms. Joyce Parker, Planning Director, [JParker-Bozylinski@malibucity.org](mailto:JParker-Bozylinski@malibucity.org)

Planning Department

Members, City of Malibu Planning Commission

Members, City of Malibu City Council, [lpope@malibucity.org](mailto:lpope@malibucity.org); [jthorsen@malibucity.org](mailto:jthorsen@malibucity.org)

City of Malibu

23825 Stuart Ranch Road

Malibu, CA 90265

Filed via email to: [bblue@malibucity.org](mailto:bblue@malibucity.org), [lpope@malibucity.org](mailto:lpope@malibucity.org), [jthorsen@malibucity.org](mailto:jthorsen@malibucity.org),  
[JParker-Bozylinski@malibucity.org](mailto:JParker-Bozylinski@malibucity.org)

Filed via Hand-Delivery at Planning Department, City of Malibu City Hall

Re: Malibu Residential Property Owner Joan C. Lavine's Comment on Preparation of Recirculated Draft Environmental Protection Report, dated May 30, 2014, and June 12, 2014, for sewage treatment plant; City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057, comment deadline July 28, 2014, at 5:30 p.m. PDT, address to City of Malibu Planner Bonnie Blue, [bblue@malibucity.org](mailto:bblue@malibucity.org). Mailing address: 23825 Stuart Ranch Road, Malibu, CA. 90265. Scoping meeting: Dec. 11, 2013, 6:30 p.m. PST, at City of Malibu Council Chambers, 23825 Stuart Ranch Road, Malibu, CA 90265.

Dear Ms. Parker, Ms. Blue, Members, of Malibu City Council, and Members, City of Malibu Planning Commission:

I hereby submit my comment regarding the preparation of a Recirculated Draft Environmental Impact Report, comment period notices dated May 30, 2014, and June 12, 2014, and comment due date deadline on 28, 2014, at 5:30 p.m. PDT.

I again advise you that I oppose and object to the construction of the proposed City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057.

I again urge that any permits and applications for the proposed City of Malibu, Malibu Civic Center Waste Treatment Plant, applied for under Recirculated Draft Environmental Protection Report, dated May 30, 2014, and June 12, 2014, for a sewage treatment plant; City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057, comment deadline July 28, 2014, at 5:30 p.m. PDT, be denied.

Monday, July 28, 2014 3:13 PM Page 1 of 6

1. I object that, among other material, prejudicial and overriding defects in the wholly inadequate Recirculated Draft Environmental Impact Report, are the following as described in Laurel Heights etc. Assn. v Regents, U.C., 47 Cal.3d 396: 1) That it does not discuss anticipated future activities and/or the effects of those activities and uses; (2) That it does not adequately discuss feasible alternatives to the project; and (3) That there is no substantial evidence the project's adverse environmental effects, especially injection induced seismicity, destruction of the established, stable residential community and traffic flow crises, will be mitigated. These challenges are based on the California Environmental Quality Act (CEQA) (Pub.Resources Code, § 21000 et seq.).

2. The Recirculated Draft Environmental Impact Report (R-DEIR), City of Malibu EIR No. 13-001 (Coastal Development Permit No 13-057) is substantially incomplete and inadequate. It fails to satisfy the basic legal requirements for the preparation of a DEIR or an EIR in several fundamental ways. Laurel Heights etc. Assn. v. Regents, U.C., 47 Cal.3d 376, 396 (1988).

The Recirculated Draft Environmental Impact Report, City of Malibu EIR No. 13-001, inadequately and prejudicially narrowly defines and describes the proposed project at Section 1.2 "Proposed Project", p. 1-2, as follows:

The proposed Project consists of the Civic Center Wastewater Treatment Facility, six nine pump stations, and approximately 13.7 miles of pipeline.

This pending R-DEIR fails to describe, define and identify the actual scope of the proposed "project" adequately so as to include the known, expected and/or potential future adverse environmental impacts. To put it another way, the proposed "project" is myopic in being described and defined too narrowly in scope so that it fails the adequately address the future known adverse environmental impacts and consequences:

a) The proposed project, even as unapproved at this time, is catastrophically commercially growth-inducing. It is well over and violates the two-percent rule provided for in the Southern California 2008 Regional Comprehensive Plan (pdf. Page 24 "LAND USE AND HOUSING GOALS").

b) It is likely to destroy and eradicate between 400-500 residential single-family units and to displace about 1200-1500 individuals, violating and conflicting with the Regional comprehensive Plan as well as the Malibu LUP, which should be treated and classified as significant adverse environmental impacts as growth-inducing, violating the goal of protecting the Malibu Civic Center's present long-time stable, single-family residential community, and the cumulative effects on same and adverse environmental effects on human beings.

c) It fails to provide substantial evidence to support a finding that effluent injection into the groundwater is safe and will not trigger earthquakes or landslides. It provides no valid, reliable, credible evidence that injection of effluent into Malibu Civic Center groundwater will not trigger earthquakes and liquefaction.

d) It fails to address the cumulative effects of multiple pending commercial venture

permits and related construction applications waiting for the approval of this project. All of these MUST be considered in and as part of this Malibu Civic Center Waste Treatment Facility DEIR/EIR proceeding City of Malibu EIR No. 13-001, and Coastal Development Permit No. 13-057.

3. The separate consideration areas in CEQA, particularly in the CEQA Guidelines Appendix G checklist, and the cumulative effects of the substantial adverse, negative impacts of the City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057, along with other projects pending for approval and/or which are approved are not just significantly adverse. They are catastrophically destructive of the entire Malibu Civic Center residential community.

I do not find within this R-DEIR substantial or any evidence, evaluations or proposed findings addressing the regarding CEQA Guidelines, Appendix G Checklist, Section XVIII. MANDATORY FINDINGS OF SIGNIFICANCE, and specifically Subsection (c), impact issues covering significant adverse effects on human beings under the CEQA Guidelines Checklist. It is dismissive, perfunctory, and barely touches on considerable numbers and size, both qualitatively and quantitatively. Public Resources Code, Sec. 21083(b)(3); 14 CCR 15065(a)(4). CEQA Guidelines, Appendix G Checklist, Section XVIII. MANDATORY FINDINGS OF SIGNIFICANCE. I object to these omissions as prejudicial to the consideration of the significant adverse environmental impacts.

The cumulative effects of the City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057 and the several major proposed pending development projects, commercial and developer mega-mansions, would be to convert the Malibu Civic Center into a downtown commercial center. To put it another way, this project promotes the destruction of a long-time residential community. I respectfully submit that this effect is contrary to and violates the City of Malibu General Plan. I respectfully submit that this proposed project is materially contrary to and materially conflicts with the Southern California Regional Comprehensive Plan goals of the "2% Strategy" and of preserving the Malibu Civic Center's long-time, stable residential community of 400 to 500 single-family dwellings.

I do not find any discussion about the commercial growth-inducing anticipated future activities, as established by the extensive number of pending permit applications for them in the Malibu Civic Center and listed for a page and a half in the R-DEIR. This makes the R-DEIR legally inadequate so that the proposed project, including the future activities and uses, cannot go forward without including them in this R-DEIR.

What cursory references there are to growth-inducing increases in traffic are treated in a dismissive, perfunctory and casual manner, not recognizing that the Malibu Civic Center is already impassible during holiday, vacation and weekends.

What cursory references there are to growth-inducing issues of consumption of water and lack of supplies are likewise as treated in a dismissive, perfunctory and casual manner, not recognizing that the Malibu Civic Center is already. The R-DEIR appears to ignore that the Los Angeles Waterworks lacks the supplies to service these commercial ventures and that there are likely to be water wars between the long-term, established, stable single-family residential

community and the commercial interests. Where will any increase in water supply come from?

4. I object that this proposal fails to support, fails to advance, and fails to implement resident-serving uses or needs. This project, alone and cumulatively with the other pending proposed projects for the Malibu Civic Center, would destroy the residential and recreational nature of the Malibu Civic Center.

5. I object to the catastrophic financial burden of \$41 million to \$60 million, and the projected \$500,000 per residential parcel assessment burden, and to the connection and monthly use fees. This is confiscatory taxation and cost-shifting that constitutes seizure of most of the residential properties in the Malibu Civic Center. See a copy of the City of Malibu estimates of cost at \$1000 (One-thousand dollars) per month per residential parcel for 30 (thirty) years, attached hereto and marked as Exhibits "B" and "C" hereof, at pages 0014-0019.

6. I object that there has been a lack of funding from the State of California for a State mandated sewer system and treatment facilities.

This R-DEIR fails to require the City of Malibu to seek and obtain funding for this proposed project from the State of California, which is under the California Constitution, required to pay for this state-mandated proposed project under Article 13B, Section 6, California Constitution.

This R-DEIR fails to require the City of Malibu to seek and obtain funding for residential property owners under Water C. § 13291.5.

7. I object to the campaign and goal of coercive, involuntarily obtained funding on the backs of residents and residential property owners by extortious, coercive threats of \$10,000 per day fines and sanctions as felonies under California law unless we tax ourselves up to \$500,000, and perhaps more, to pay for this sewage plant project. I view same as extortion, voter intimidation, and violation of federal and state civil rights.

**8. I object that removal of a large portions or all of the residential housing in the Malibu Civic Center** will displace at least about 1500 residents from about 400 to 500 dwellings. This will necessitate replacement housing having to be constructed or obtained elsewhere. Title 42 U.S.C. § 4600 et seq.

I object that this proposal is invidiously discriminatory against residential property owners. Each property and proposed project on it will have the effect of advancing an agenda or set of agendas that will likely destroy or substantially reduce the residential community. It has the substantial adverse effect of displacing and/or making homeless and destitute, several hundred residents, many of whom are seniors without resources to relocate. Replacement housing for up to 1500 residents will likely be required. What provisions will be made to mitigate this housing loss and residents' dislocation?

9. Placement of a sewage disposal plant in a residential community as high-profile as the Malibu Civic Center is will have the effect of deteriorating the area.

10. The alternative of not installing such a system should be seriously evaluated, vented and chosen chosen for safety, cost-effectiveness and reliability, plus the ability for properties outside the Malibu Civic Center to use it.

11. Placement of a sewage disposal plant in a residential community as high-profile as the Malibu Civic Center is will have the effect of deteriorating the area.

12. I dispute the safety of groundwater injection as a means of effluent and residue disposal. The proposed means of disposal by injection into the ground and groundwater. There is considerable controversy as whether injection of water into the ground is generally safe. The USGS is documenting drastically increased seismic activity where it is being done in the Mid-Western States. This means of disposal in the Malibu Civic Center is also troublesome, because shallow faults run through the Malibu Civic Center. Fluid injected into the ground is likely to increase water table levels and to create a stronger likelihood of liquefaction. As well, it is unclear whether the proposed plant can actually process and dispose of the effluent or residue safely.

The City of Malibu should be required to obtain impartial scientific evaluations of where Malibu Civic Center area earthquake fissures and faults exist, whether the underground areas are capable of receiving the amount of liquid currently and in the future that may be generated, and studies about whether water injection induced seismic/earthquake/liquefaction activity is likely to be the result of the injection of effluent into the ground in the Malibu Civic Center. See attached at Exhibits "D", "E", and "F" hereof, at pages 0020 through 0060. Ex. "D": USGS Earthquake Hazards Program, at <http://earthquake-usgs.gov/research/induced/>. Ex. "E" "Injection wells blamed in Oklahoma earthquakes, Science, 4 July 2014, Vol. 345, No. 6192, pp. 13-14, DOI: 10.1126/science.345.6192.13; Ex. "F" Supplementary Materials for "Sharp increase in central Oklahoma seismicity since 2008 induced by massive wastewater injection, published 3 July 2014 on Science Express, DOI: 10.1126/science.1255802.

Failure to identify properties to which the septic ban applies and which are required to cease use of their OWTS's and be burdened by installation of a sewer system, sewage/wastewater treatment plant constitutes lack of fair, reasonable or actual notice of the properties included in the ban and burdened and prejudicially violates the rights of the interested parties to due process. It is fundamentally unfair.

13. I object that there has a wholly deficient investigation into whether there is a need for a sewage plant or a sewer system in the Malibu Civic Center and that the City of Malibu has failed to protect and to advance the residential property owners' interests by pressing the SWRCB and LA RWQCB with substantial or any evidence that Malibu Civic Center OWTS systems are not the culprits, that contaminants and/or pollution is primarily naturally occurring, to the extent that it exists, and that cessation of the use of residential OWTS systems will not result in any improvements in groundwater quality in the Malibu Civic Center. See Izbicki et al., *Annals of Environmental Science* / 2012, Vol 6, 35-86 (<http://www.aes.northeastern.edu>, ISSN 1939-2621); Water Quality Report, dated April 30, 2014, of the Serra Canyon area of the Malibu Civic Center, prepared by Citadel Environmental Services, attached hereto as Exhibit "H" hereof, part at page 0065.

14. I have not found an "Initial Study" as required by Title 14 CCR § 15063, or an order or finding that it is not necessary. If none exists, without the waiver by order, then these R-DIER proceedings are jurisdictionally defective. The City of Malibu should be required to conduct an "Initial Study" before going any further.

15. Lack of adequate notice to the residential property owners within the septic ban zone is due to the failure of the City of Malibu to identify and notify those listed property owners and occupants that they, by addresses and assessor's identification numbers, are subject to the ban and the assessments.

Failure to identify properties to which the septic ban applies and which are required to cease use of their OWTS's and be burdened by installation of a sewer system, sewage/wastewater treatment plant constitutes lack of fair, reasonable or actual notice of the properties included in the ban and burdened and prejudicially violates the rights of the interested parties to due process. It is fundamentally unfair.

16. Lack of adequate notice and an adequate, reasonable opportunity to respond to the DEIR due November/December, 2013, holidays, scheduling of several CEQA and other proceedings related to the Malibu Civic Center, the Malibu Civic Center septic ban and amendment to the Los Angeles Regional Water Basin Plan likewise constitutes lack of fair, reasonable or actual notice of the properties included in the ban and burdened and prejudicially violates the rights of the interested parties to due process. It is fundamentally unfair.

17. I am concerned about and object to the immediate conflict of interest inherent in the City of Malibu's Planning Department staff reviewing and making determinations regarding this proposed project where the City of Malibu is the applicant. This appears to be self-dealing. It fails to provide the public with a neutral and independent staff making decisions that may make any of them destitute, displaced, homeless and unable to recover, as well as destroying them financially.

I urge that this proposed project and all permits and approvals be rejected.

Very truly yours,  
Joan Lavine, Owner Malibu Civic Center residential property



*From the Desk of Joan C. Lavine*

Attorney at Law

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December 15, 2014, 12:05 p.m. PST

Mayor and City Councilmembers, City of Malibu City Council

Ms. Bonnie Blue, AICP, Planning Manager

City of Malibu

23825 Stuart Ranch Road

Malibu, CA 90265

[bblue@malibucity.org](mailto:bblue@malibucity.org)

Transmitted via email and by hand-delivery.

Re: Malibu Civic Center Property Owner Joan C. Lavin's opposition to granting of permits and proceedings on City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057

Dear Sirs and Madams:

I continue to oppose the issuance of permits or granting of authority to proceeding with the construction of a City of Malibu Civic Center Waste Treatment Facility. My oppositions are based on my position that these proceedings violate the Due Process Clauses of the 5<sup>th</sup> and 14<sup>th</sup> Amendments, U.S. Constitution, and Article I, Sections 1, 13, 16 and 19 of the California Constitution.

I incorporate by reference as though fully set forth herein my Joan Lavine Comments I previously filed on January 7, 2014, and on July 28, 2014, with page 012 of the July 28, 2014, submitted by email to Ms. Blue on September 16, 2014.

In addition, I believe that several environmental and safety factors have not been addressed.

Given our dealing with terrorism and attempts to destroy our infrastructures, those using on-site waste disposal systems are freed from the hazard of losing waste disposal and not subject to a terrorist groups attack on centralized sewage disposal piping and treatment.

Given the great concern about depletion of groundwater, it appears to me that septic systems at least return water to the ground on widely disbursed percolation.

I urge you to deny any permits, authorization or clearance to proceed with construction under the above involved proceedings.

Respectfully submitted,

JOAN C. LAVINE,

Malibu Civic Center Residential Property Owner

*Joan C. Lavine*

123 North Hobart Blvd.  
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January 12, 2015

Mayor and City Councilmembers, City of Malibu City Council  
Ms. Ms. Bonnie Blue, AICP, Planning Manager City of Malibu, [bblue@malibucity.org](mailto:bblue@malibucity.org)  
23825 Stuart Ranch Road  
Malibu, CA 90265

Transmitted via email to [bblue@malibucity.org](mailto:bblue@malibucity.org), and by hand-delivery.

Re: Malibu Civic Center Property Owner Joan C. Lavine's opposition to granting of permits and proceedings on City of Malibu Civic Center Waste Treatment Facility Project, EIR No. 13-001, and Coastal Development Permit No. 13-057; hearing date and time before City of Malibu, Malibu City Council on January 12, 2015, at 6:30 p.m.

Dear Sirs and Madams:

I continue to oppose the issuance of permits or granting of authority to proceed with the construction of a City of Malibu Civic Center Waste Treatment Facility. My oppositions are based on my positions that these proceedings are illegal, unconstitutionally confiscatory and violate Takings, Equal Protection and Due Process Clauses of the 5<sup>th</sup> and 14<sup>th</sup> Amendments, U.S. Constitution, and Article I, Sections 1, 13, 16 and 19 of the California Constitution.

I object that the State of California, through its California Regional Water Quality Control Board, Region Four/Los Angeles Region, has failed to meet the California Constitutional mandate requiring the State of California to fund its state-mandated ban and prohibition of on-site wastewater management systems as required by Article 13B, Section 6, California Constitution.

I object that the real purpose of the prohibition on on-site wastewater management systems in the Malibu Civic Center and the proceedings to install a sewage disposal plant in the Malibu Civic Center are improperly to advance and to provide local Malibu residential taxpayer funded and assessed payment of a waste disposal system for commercial and developer benefit in order to develop the Malibu Civic Center into a downtown commercial, non-residential center. In other words, it seeks to unconstitutionally, illegally, unfairly and in a confiscatory manner cost-shift infrastructure costs needed by commercial and developer interests to advance large commercial and developer projects. I object that a septic ban in the Malibu Civic Center has no factual basis as promoting health or public safety, and that the claim that residential on-site septic systems pollute is not supported by sound, reliable, adequately performed scientific testing, but is contrary to the facts.

I object that the sewer plant involves "spot zoning", violative of Takings, Equal Protection and Due Process Clauses of the 5<sup>th</sup> and 14<sup>th</sup> Amendments, U.S. Constitution, and Article I, Sections 1, 13, 16 and 19 of the California Constitution. It is discriminatory in treating the Malibu Civic Center and its residents in a prejudicial, unfair, invidiously discriminatory manner, and fails to comport with land use provisions for the preservation of established residential communities in the Malibu Civic Center.

I object that it will have the effect of destroying the established residential communities in the Malibu Civic Center, and of destroying single-family residential housing and displacing the residential population, particularly people over 65.

I object that there is a failure to provide housing relocation funding mandated by federal law under Title 42 United States Codes, Section 1146, et seq.

I incorporate by reference as though fully set forth herein my Joan Lavine Comments I previously filed on January 7, 2014, and on July 28, 2014, with page 012 of the July 28, 2014, submitted by email to City of Malibu Senior Planner Ms. Blue on September 16, 2014, and my Comment filed via email on December 15, 2014, at 12:05 p.m. PST, and hand-delivered on December 15, 2014, at 12:41 p.m. PST.

I object that a sewer plant in the Malibu Civic Center is profoundly unsafe.

In addition, I believe that several environmental and safety factors have not been addressed.

Given terrorism issues and potential terrorists' attempts to destroy our infrastructures, those using on-site waste disposal systems are freed from the hazard of losing waste disposal and not subject to a terrorist groups attack on centralized sewage disposal piping and treatment. The Malibu area is a prime presumptive target of those hating Western secular culture and Western secular affluence.

Given the great concern about depletion of groundwater, septic systems have the benefit of returning water to the ground in widely disbursed percolation, so that it is preferable to groundwater injection that could cause seismic events and liquefaction.

I urge you to deny any permits, authorization or clearance to proceed with construction a sewage plant in the Malibu Civic Center under the above involved proceedings and at all.

Respectfully submitted,

JOAN C. LAVINE,  
Malibu Civic Center Residential Property Owner

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800



# W20a

**DATE:** April 30, 2015

**TO:** Commissioners and Interested Persons

**FROM:** Jack Ainsworth, Deputy Director  
Steve Hudson, District Manager  
Barbara Carey, Supervisor, Planning and Regulation  
Denise Venegas, Coastal Program Analyst

**SUBJECT:** City of Malibu Local Coastal Program Amendment No. LCP-4-MAL-15-0001-1 (Civic Center Wastewater Treatment Facility) for Public Hearing and Commission Action at the May 13, 2015 Commission Meeting in Santa Barbara.

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## DESCRIPTION OF THE SUBMITTAL

The City of Malibu is requesting an amendment to the Local Implementation Plan (LIP) portion of its certified LCP to allow for the Civic Center Wastewater Treatment Facility (CCWTF) on a property located at 24000 Civic Center Way in the City of Malibu currently zoned Visitor Serving Commercial 2 (CV-2) and to create an overlay district for the proposed treatment facility with associated development standards. The City's proposed amendment was undertaken in response to regulatory actions taken by the Los Angeles Regional Water Quality Control Board (LARWQCB and the State Water Resources Control Board to ban discharges from onsite wastewater disposal systems (OWDSs) within a certain prohibition zone designated in the City of Malibu Civic Center area. The amendment request is project-driven to allow for the construction of a wastewater treatment plant to serve commercial and residential uses in the Malibu Civic Center and adjacent areas.

## SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **DENY** the proposed LIP component of the City of Malibu LCP Amendment No. LCP-4-MAL-15-0001-1, as submitted, and **APPROVE** the LIP amendment subject to suggested modifications. The modifications are necessary because the LIP amendment, as submitted, does not conform with and is inadequate to carry out the provisions of the Land Use Plan. The motions and resolutions for Commission action can be found starting on **page 6**. The suggested modifications can be found starting on **page 8**.

The City of Malibu is requesting an amendment to the Local Implementation Plan (LIP) portion of its certified LCP to create a new overlay (Civic Center Wastewater Treatment Facility Institutional Overlay District) to be placed on the property at 24000 Civic Center Way (APN: 4458-028-020 and 4458-028-006), including the former Malibu Canyon Road right-of-way. Additionally, the proposed overlay will apply use restrictions and development standards, which regulate setbacks, heights, siting and resource impact mitigation measures, over the property. The proposed overlay site is currently zoned CV-2 and contains an existing legal non-conforming wastewater treatment facility. The development standards set forth in CCWTF Institutional Overlay district are intended by the City to ensure the project will be constructed

and operated in a manner that is protective of coastal resources and are based on the certified LCP's development standards for institutional uses, with some modifications due to the nature of the proposed public utility facility use and the characteristics of the CCWTF site. In addition, the amendment includes changes to the permitted and conditionally permitted uses of the LIP (Appendix 1, Table B – Permitted Uses), to ensure the treatment facility and associated ancillary infrastructure are allowable, consistent with the LCP.

Furthermore, the amendment adds of a new section, Section 18.10, which would include requirements and design standards for the related CCWTF and additional updates to Chapter 18 (Onsite Wastewater Treatment Systems) to clarify existing standards and better organize the chapter are also proposed. Specifically, the new proposed LIP Section 18.10 addressed permitting and submittal requirements, findings and design and performance standards tailored to the unique characteristics of the related CCWTF project. The proposed amendment also includes a new definition “Civic Center Wastewater Treatment Facility” to explicitly tie the proposed CCWTF Institutional District Overlay and other development standards to the CCWTF project specifically, and to distinguish these standards from other public utility facilities or other treatment plants unrelated to the CCWTF. Lastly, the amendment includes language to clarify that some properties will be connecting to the proposed centralized treatment facility (CCWTF) rather than using OWTs for wastewater disposal and includes new language which requires approval from the City Public Works Department for any connection to a proposed treatment facility.

However, as proposed, the LIP Amendment is not adequate to ensure that the provisions of the Land Use Plan are adequately implemented. The major issues raised by this amendment request are the protection of scenic, marine and land resources; and the implementation of land use, new development and public works policies of the LUP. Specifically, the proposed visual related development standards would allow a single retaining wall within required yards up to a height of 7 feet and would allow a single retaining wall up to a height of 12 feet. However, these proposed provisions are inconsistent with LUP Policy 6.14, which states the height of permitted retaining walls shall not exceed six feet, however retaining walls up to 12 feet in height may be allowed when stepped or terraced with planting in between. Therefore, **Suggested Modification 2** modifies the proposed development standards to only allow a single retaining all up to 6 feet high within required yards, and only allows a single retaining wall up to a height of 12 feet when stepped or terraced, and no more than 6 ft. in height is visible from ground level.

In addition, the amendment considers the future CCWTF project to be a necessary water supply project; however the LIP does not include any provisions to adequately carry out the proposed provision to require the CCWTF to maximize the use of reclaimed water. Therefore, **Suggested Modification 4** modifies proposed LIP language to require the proposed CCWTF to maximize the use of reclaimed water produced by the facility and, where feasible, to substitute the reclaimed water for potable water uses. Furthermore, **Suggested Modification 4** inserts a new provision for the CCWTF project, to require all new development approved within the Prohibition Area to be conditioned to install all necessary plumbing and other improvements to allow the development to connect to reclaimed water lines when they are available and make the maximum feasible use of reclaimed water; and to require the City to encourage the retrofit of existing development to connect to reclaimed water lines when available and the substitution of reclaimed water for as many existing potable water uses as feasible.

Further, the proposed overlay will apply use restrictions and development standards over the property to require development to be sited to avoid impacts to ESHA. Specifically, the proposed amendment requires the siting of the future CCWTF and offsite pipelines and ancillary infrastructure to avoid impacts to ESHA as much as feasible and includes mitigation measures for any ESHA impacts. However, the proposed development siting LIP section is included as part of the CCWTF Institutional Overlay District provisions. However, the overlay provisions only apply to the two parcels and the Malibu Canyon Road right-of-way. Therefore, the CCWTF Overlay District provisions do not apply to the areas outside the overlay, such as the offsite locations for the offsite pipelines and ancillary infrastructure. In order to ensure that all offsite pipelines and ancillary infrastructure are sited and designed to protect environmentally sensitive habitat areas, **Suggested Modification 2 and 4**, are necessary to relocate the proposed development siting LIP section from the CCWTF Institutional Overlay District to the proposed new section, Section 18.10, which sets forth requirements and design standards for the future CCWTF project, including offsite pipeline and ancillary infrastructure.

In addition, the proposed amendment allows for a reduced ESHA buffer that would only apply within the overlay zone and only for the future wastewater treatment facility. As proposed, the amendment is inconsistent with LUP Policy 3.14 which state that modifications to buffers or other ESHA protection standards shall not be granted, except where there is no other feasible alternative for siting the development. While the LUP policy allows for a reduced ESHA buffer, the LUP only allows the reduction when there is no other feasible alternative for siting the development. Therefore, to ensure that proposed amendment conforms to the applicable LUP policies, **Suggested Modification 2** modifies the proposed development standards to only allow for a reduced ESHA buffer when there is no feasible alternative for the siting of the development.

The remaining modifications are minor clarifications to LIP text and figures that further the intent and implementation of the LCP and where the lack of information may cause inadequate interpretation and implementation of the LCP. The standard of review for the proposed changes to the Local Implementation Plan is whether the amendment conforms with and is adequate to carry out the provisions of the Land Use Plan (LUP) portion of the certified City of Malibu Local Coastal Program.

Further, the coastal development permit for the future wastewater treatment facility at the subject overlay site and offsite ancillary infrastructure have already been conditionally approved by the City of Malibu, conditioned to not be effective until certification of the subject LCP amendment. As such, Commission staff has conducted a project-level review of the specific development proposed for the Civic Center Wastewater Treatment Facility and recommends adoption of suggested modifications in order to conform with and be adequate to carry out the applicable policies of the certified Land Use Plan.

**Additional Information:** For further information, please contact Denise Venegas at the South Central Coast District Office of the Coastal Commission at (805) 585-1800. The proposed amendment to the City of Malibu Local Coastal Program (LCP) is available for review at the Ventura Office of the Coastal Commission or on the Commission's website at <http://www.coastal.ca.gov/mtgcurr.html>.

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## APPENDICES

### Appendix A Substantive File Documents

## EXHIBITS

- Exhibit 1. City of Malibu Proposed LCP Amendment Text
  - Exhibit 2. City of Malibu Ordinance No. 386 Approving the Proposed LCP Local Implementation Amendment
  - Exhibit 3. City of Malibu Resolution No. 15-05 Approving CDP No. 13-057
  - Exhibit 4. Proposed CCWTF Institutional Overlay District Map
  - Exhibit 5. Prohibition Area Map
  - Exhibit 6. Public Comment Letter
  - Exhibit 7. Overlay Site Vicinity Map
  - Exhibit 8. Aerial Photo
  - Exhibit 9. CCWTF Overlay Site Photo
  - Exhibit 10. Conceptual CCWTF Project Site Plan
  - Exhibit 11. Conceptual CCWTF Aerial Site Plan
  - Exhibit 12. Conceptual CCWTF Project Pump Station Plan
- 

## I. PROCEDURAL ISSUES

### A. STANDARD OF REVIEW

The Coastal Act provides:

*The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30512(c))*

The Coastal Act further provides:

*The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter*

*...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)*

*The Commission may suggest modifications...(Section 30513)*

The amendment proposed affects the Implementation Plan component of the certified City of Malibu LCP. The standard of review for the proposed amendment to the Local Implementation



Plan of the certified LCP, pursuant to section 30513 and 30514(b) of the Coastal Act, is whether the Implementation Plan as modified by the proposed amendment would be in conformance with, and adequate to carry out, the provisions of the Land Use Plan portion of the adopted City of Malibu Local Coastal Program. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified City of Malibu Land Use Plan.

## **B. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City held a series of public hearings on the subject amendment requests. The hearings were noticed to the public consistent with Sections 13551 and 13552 of Title 14 of the California Code of Regulations. The City received written or oral comments regarding the proposed amendment from interested parties or members of the public. Notice of the subject amendment has been distributed to all known interested parties.

## **C. PROCEDURAL REQUIREMENTS**

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that a Local Coastal Program Amendment will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. The City Council Ordinance for this amendment states that the amendment will take effect after Commission certification. However, in this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves this Amendment, the City must act to accept the certified suggested modifications within six months from the date of Commission action in order for the Amendment to become effective (California Code of Regulations, Title 14, Section 13542 and 13544). Pursuant to Section 13544, the Executive Director shall determine whether the City's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City.

## **II. STAFF MOTIONS, RESOLUTIONS, AND RECOMMENDATIONS ON THE LOCAL IMPLEMENTATION PLAN AMENDMENT**

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

### **A. DENIAL OF THE LOCAL IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED**

#### **Motion I:**

*I move that the Commission reject the City of Malibu Local Implementation Plan Amendment LCP-4-MAL-15-0001-1, as submitted.*

**STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Plan Amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of the majority of the Commissioners present.

**RESOLUTION TO DENY CERTIFICATION OF THE LOCAL IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED:**

The Commission hereby denies certification of the City of Malibu Local Implementation Plan Amendment LCP-4-MAL-15-0001-1 and adopts the findings set forth below on grounds that the Implementation Plan amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment as submitted.

**B. CERTIFICATION OF THE LOCAL IMPLEMENTATION PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS**

**Motion II:**

*I move that the Commission certify the City of Malibu Local Implementation Plan Amendment LCP-4-MAL-15-0001-1 if it is modified as suggested in this staff report.*

**STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Local Implementation Plan Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY THE LOCAL IMPLEMENTATION PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS**

The Commission hereby certifies the City of Malibu Local Implementation Plan Amendment LCP-4-MAL-15-0001-1, if modified as suggested, and adopts the findings set forth below on grounds that the Local Implementation Plan amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, as amended. Certification of the Local Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Local Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

### III. SUGGESTED MODIFICATIONS ON THE LOCAL IMPLEMENTATION PLAN (LIP) AMENDMENT

The staff recommends the Commission certify the following, with the modifications as shown below. The existing language in the certified Implementation is shown in straight type. Language proposed by the City of Malibu in this amendment to be inserted is shown underlined and language proposed to be deleted is shown in ~~striketrough~~. Language proposed by Commission staff to be inserted is shown in double underline and language proposed to be deleted is shown in ~~double striketrough~~. Other suggested modifications that do not directly change LCP text (e.g., revisions to figures, instructions) are shown in *italics*.

#### ***SUGGESTED MODIFICATION NO. 1***

### CHAPTER 2 – DEFINITIONS

#### 2.1 GENERAL DEFINITIONS

“CIVIC CENTER WASTEWATER TREATMENT FACILITY” (CCWTF) means a public utility facility to be constructed in the Malibu Civic Center area in response to the prohibition on discharges from onsite wastewater treatment systems adopted by the Los Angeles Regional Water Quality Control Board in Resolution No. R4-2009-007 and the State Water Quality Control Board in Resolution No. 2010-0045, in order to provide centralized municipal wastewater treatment facilities to affected properties.

#### ***SUGGESTED MODIFICATION NO. 2***

### CHAPTER 3 – ZONING DESIGNATIONS AND PERMITTED USES

#### 3.4 OVERLAY ZONES

...

3.4.4 Civic Center Wastewater Treatment Facility (CCWTF) Institutional Overlay District (24000 Civic Center Way / APNs 4458-028-060 and 4458-028-020)

- A. The provisions of this section shall only apply in the event the ~~subject~~ CCWTF Overlay property is acquired by a public agency or special district and committed to use for the Civic Center Wastewater Treatment Facility.
- B. The Institutional ~~Property~~ Development and Design Standards contained in LIP Section 3.9, as well as all other applicable certified LCP policies and provisions, shall apply, unless specifically modified by this section.
- C. Siting

1. Environmentally Sensitive Habitat Area. The CCWTF is a necessary water supply project with incidental public service components (per LIP Section 18.10(B)). The project shall comply with applicable provisions of LIP Chapter 4, such as but not limited to siting the project to avoid impacts to ESHA and to provide the minimum required ESHA buffers, except as otherwise provided below:
    - a. CCWTF treatment plant site. LIP Section 4.6.4(A) (Variances) shall not apply and a reduced ESHA buffer may be allowed if there is no feasible alternative for siting the development and all of the following requirements are met:
      - i. The treatment plant facilities are sited within the previously approved and disturbed development area to the maximum extent ~~as much as~~ feasible.
      - ii. The required driveway is located along the existing unpaved driveway to the maximum extent feasible ~~as much as possible~~.
      - iii. Any required fuel modification that encroaches into ESHA buffer is limited to thinning only.
      - iv. Any onsite pipelines and equipment that must be located within 100 feet of ESHA shall be installed under pavement or within previously disturbed areas to the maximum extent ~~as much as~~ feasible.
      - v. The square footage of reduced ESHA buffer area is offset with ESHA restoration of an area of degraded habitat equivalent to the affected area. Wetland impacts shall be mitigated with the appropriate mitigation ratio pursuant to LIP Section 4.8.2 ~~enhancement elsewhere on the site on a one to one basis~~. The ESHA and/or wetland enhancement shall be incorporated into the site landscape plan reviewed and approved by the City Biologist.
    - ~~b. Offsite pipelines and ancillary infrastructure:~~
      - ~~i. Pipelines and ancillary infrastructure associated with the project, such as but not limited to pump stations, generators, and wells not located on the treatment plant site, shall be located underground whenever feasible and/or in disturbed areas, especially under existing paving, as much as possible to avoid ESHA, native trees, trails, public recreational use areas (such as within parks), and visual impacts.~~
      - ~~ii. Any temporary impacts to ESHA from excavation, trenching, or other construction disturbance shall be fully restored. Permanent impacts to or loss of ESHA shall be offset by payment of an in lieu fee in accordance with LIP Section 4.8.1(C). The applicant shall provide a preliminary calculation of any impact areas for review and approval by the City Biologist as part of the CDP application and a final calculation prior to issuance of a grading permit for the development affecting the ESHA resources.~~
2. Native Trees. The project shall be designed to avoid impacts to protected native trees as defined in LIP Chapter 5; however, where impacts to protected native trees cannot

be feasibly be avoided, impacts shall be minimized. Such impacts shall only be allowed if, as a condition of approval of a coastal development permit for the development, the applicant shall be required to: 1) implement a tree protection plan prepared in accordance with LIP Section 5.3 and approved by the City Biologist for trees that will not be removed; and 2) if no feasible alternative can prevent tree removal, the applicant shall submit a native tree replacement planting program required by LIP Section 5.5.1 or if onsite mitigation is not feasible, mitigation shall be provided by either offsite mitigation or payment of an ~~the~~ in lieu fee as required by LIP Section 5.5.2(b) for trees that are removed, prior to the issuance of a grading permit for the development affecting the protected trees.

...

F. Fencing and Walls. LIP Section 3.5.3(A) shall apply except that the portion of fence above 42 inches in height within any required yard need not be ~~open/visually~~ permeable where it serves as screening for structures or equipment. Vegetative screening within or outside of required yards shall not be limited in height except where such screening ~~would block the primary view of any affected residence as described in Malibu Municipal Code Section 17.40.040(A)(17), or~~ would significantly obstruct ~~impede~~ public views of scenic areas. Additionally, single retaining walls within required yards may extend to a height of up to ~~7~~ 6 feet, so long as such walls incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape when they are visible from a scenic highway, public viewing areas, trails, and parks ~~surrounding public and private properties and rights of way.~~

...

H. Grading. LIP Chapter 8 shall apply except that a single retaining wall up to a height of 12 feet shall ~~only~~ be allowed when stepped or terraced, and no more than 6 ft. in height is visible from ground level, and all grading associated with access driveways shall be included in the exception from grading limitations of LIP Section 8.3(I).

I. Visual Impacts / Screening. Structures and equipment shall be designed to minimize visual impacts using methods including, but not limited to: locating development below ground level where possible; utilizing landscape screening to soften views of the development and allow it to blend with the surrounding environment; and incorporating design measures like walls, fencing, and building and lighting orientations that help ~~to contain operational sounds and odors, screen site development from scenic highways, nearby properties and public viewing areas, trail, parks and avoid light spill onto ESHA~~ ~~offsite light spill.~~

### ***SUGGESTED MODIFICATION NO. 3***

## **CHAPTER 13 – COASTAL DEVELOPMENT PERMITS**

### **13.6 APPLICATION REQUIREMENTS AND FEES**

...

#### **13.6.4 Application Form and Information Requirements**

The coastal development permit application form shall require the submittal of at least the following items:

...

H. For development relying on an ~~On Site~~ Onsite Wastewater Treatment System, a Septic Plot Plan, prepared by an Environmental Health Specialist that shall include a percolation testing report and septic system design of adequate size, capacity and design to serve the proposed development for the life of the project. ~~Development that will be connected to the Civic Center Wastewater Treatment Facility shall obtain approval from the City Public Works Department for the connection.~~

I. For applications for land divisions:

1. ~~Except for proposed parcels that will be connected to the Civic Center Wastewater Treatment Facility,~~ a report prepared by a registered groundwater hydrologist and Environmental Health Specialist that addresses the ability of each proposed building site to accommodate a sewage disposal system, including an analysis of depth to groundwater that addresses seasonal and cyclical variations as well as the adequacy of percolation rates in post-grading conditions (cut or compacted fill); properties that will be connected to the Civic Center Wastewater Treatment Facility shall obtain approval from the City Public Works Department for the connection;

J. For applications for water wells, a groundwater hydrological study that analyzes the individual and cumulative impacts the well may have on groundwater supplies and the potential individual and cumulative impacts the well may have on adjacent or nearby streams, springs, or seeps and their associated riparian habitat. ~~Additionally, new proposed water wells located within the Malibu Valley Groundwater Basin must comply with groundwater management requirements of the California Department of Public Health.~~

**SUGGESTED MODIFICATION NO. 4**

**CHAPTER 18 – ~~ON-SITE~~ WASTEWATER TREATMENT SYSTEM STANDARDS ORDINANCE**

**18.1 PURPOSE AND INTENT**

The purpose and intent of this Chapter is to protect coastal waters within the City of Malibu from impacts resulting from the design, siting, installation, operation, and maintenance of Onsite Wastewater Treatment Systems (OWTSs) and Civic Center Wastewater Treatment Facility (CCWTF), in accordance with the policies of the City’s Local Coastal Plan. To implement the certified Land Use Plan; permit application requirements; siting, design and performance standards; maintenance, operation and monitoring requirements; and other measures are provided to ensure that permitted OWTSs and CCWTF shall be designed, sited, installed, operated and maintained to prevent the introduction of pollutants into coastal waters and protect the overall quality of coastal waters and resources.

**18.2 APPLICABILITY**

All properties within the City of Malibu are located within the coastal zone as defined in the California Coastal Act and are subject to the policies, standards and provisions of this Chapter in addition to any other policies or standards contained elsewhere in the certified LCP that may apply. Where a policy or standard provided in this Chapter conflicts with any other policy or standard contained in the City's General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the certified LCP, and it is not possible for the development to comply with both the LCP and other plans, resolution or ordinance, the policies, standards or provisions described herein shall take precedence.

OWTSs and CCWTF shall be designed, sited, installed, operated and maintained in compliance with the policies, standards and provisions contained herein in the LCP. At such time as the rules and regulation developed for OWTSs by the State Water Resources Control Board pursuant to Assembly Bill 885 become effective, if they conflict with the requirements of the LCP, the City shall submit an LCP amendment seeking to modify the requirements of the LCP.

...

### **18.3 DEFINITIONS**

"MALIBU VALLEY GROUNDWATER BASIN" means a small alluvial basin located along the Los Angeles County coastline within the City of Malibu. The basin is bounded by the Pacific Ocean on the south and the non water-bearing Tertiary rocks on all remaining sides. The valley is drained by Malibu Creek to the Pacific Ocean. Average annual rain precipitation ranges from 14 to 16 inches. The groundwater is found principally in Holocene alluvium which consists of clays, silts, sands and gravels. Thickness of the alluvium ranges from 90 feet at the upper end to more than 140 feet at the lower end. Recharge of the basin is from percolation of precipitation, runoff, and effluent from Onsite Wastewater Treatment Systems.

...

### **18.10 CIVIC CENTER WASTEWATER TREATMENT FACILITY**

- A. CDP Required. A CDP shall be required for construction of each phase of the Civic Center Wastewater Treatment Facility (CCWTF), including and associated infrastructure including but not limited to: pump stations, wastewater collection and recycled water distribution pipelines, groundwater injection wells, except for those activities that are exempted ~~Where system maintenance, minor modifications or ancillary equipment fall within the exceptions allowed pursuant to LIP Section 13.4, the requirement for a CDP for such development shall not apply.~~
- B. ~~The Regional Water Quality Control Board requires t~~The CCWTF ~~to~~ shall maximize the use of reclaimed water produced by the facility and, where ~~possible~~ feasible, to substitute the reclaimed water for potable water uses. As such, for purposes of LIP Chapter 4 (ESHA) and LIP Chapter 17 (Water Quality), the CCWTF shall be considered a necessary water supply project that includes incidental public service purposes, including but not limited to, burying cables and pipes or inspection and maintenance.
- C. All new development, excluding minor remodels and additions to existing structures, approved within the Prohibition Area shall be conditioned to install all necessary plumbing and

other improvements to allow the development to connect to reclaimed water lines when they are available and make the maximum feasible use of reclaimed water.

D. The City shall encourage the retrofit of existing development to connect to reclaimed water lines when available and the substitution of reclaimed water for as many existing potable water uses as feasible.

E. Offsite pipelines and ancillary infrastructure.

i. Pipelines and ancillary infrastructure associated with the project, such as but not limited to, pump stations, generators, and wells not located on the treatment plant site, shall be located underground whenever feasible and/or in disturbed areas, especially under existing paving, as much as possible to avoid ESHA, native trees, trails, public recreational use areas (such as within parks), and visual impacts.

ii. New offsite pipelines and ancillary infrastructure shall be sited and designed to avoid impacts to ESHA to the maximum extent feasible. Any temporary impacts to ESHA from excavation, trenching, or other construction disturbance shall be fully restored. Permanent impacts to or loss of ESHA shall be offset by either (1) habitat restoration; (2) habitat conservation; or (3) payment of an in lieu fee in accordance with LIP Section 4.8.1. The applicant shall provide a preliminary calculation of any impact areas for review and approval by the City Biologist as part of the CDP application and a final calculation prior to issuance of a grading permit for the development affecting the ESHA resources.

EF. Supplementary Application Requirements. In addition to any other application materials required by this LCP, the application for a CDP for the CCWTF and associated infrastructure including but not limited to: pump stations, wastewater collection and recycled water distribution pipelines, groundwater injection wells and any future phase shall include the following:

1. An engineering report that includes a project description and the basis of design for collection system flows, anticipated treatment system performance requirements, construction requirements, effluent disposal methods, water reclamation capacity and a facility site plan.

~~2. Documentation that the project complies, or will comply, with the requirements contained in this chapter and anticipated Wastewater Discharge Requirements and/or Water Reclamation Requirements to be issued by the Regional Board (with input from the California Department of Public Health for water reclamation).~~

DG Findings. A CDP for the CCWTF, (or modifications to the facility) and associated infrastructure including but not limited to: pump stations, wastewater collection and recycled water distribution pipelines, groundwater injection wells shall only be approved if the City makes all applicable findings required in the LCP and the following:

...

EH. System Design and Performance Requirements.

...



4. Pipeline crossings of streams and/or encroachment into riparian/wetland areas shall be avoided except ~~kept to a minimum~~, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effect, ~~necessary~~. Such crossings or encroachments shall be sited in disturbed areas or underground to the maximum extent feasible, and shall be designed to be the least environmentally damaging alternative, given consideration of both construction and operation/maintenance.

...

~~7. Implementation of the project following CDP approval shall include an OWTS decommissioning and wastewater connection program designed in accordance with Regional Board and Uniform Plumbing Code requirements and which sets forth procedures and requirements for the disposition of existing OWTS and connection to the CCWTF.~~

7. All segments of pipeline crossing over any portion of the Malibu Coast Fault shall be designed to resist earth movement to the maximum extent feasible through the use of flexible piping material.

8. The removal of ESHA for the purpose of installing landscaping for the purpose of disposing of reclaimed water shall be prohibited. Irrigation of ESHA with reclaimed water shall also be prohibited.

#### ***SUGGESTED MODIFICATION NO. 5***

*Add "Civic Center Prohibition Area Map" (attached as Exhibit 5 of this staff report) as a map in Appendix 2 of the Local Implementation Plan.*

#### ***SUGGESTED MODIFICATION NO. 6***

*Modify the CCWTF Institutional Overlay District Map (attached as Exhibit 4 of this staff report) to add a legend/key to depict which parcels are subject to the overlay.*

### **IV. FINDINGS FOR DENIAL OF THE LIP AMENDMENT AS SUBMITTED, AND APPROVAL OF THE LIP AMENDMENT IF MODIFIED AS SUGGESTED**

The proposed amendment affects the Local Implementation Plan (LIP) component of the certified Malibu LCP. The standard of review for the proposed amendment to the LIP of the certified LCP, pursuant to Sections 30513 and 30514 of the Coastal Act, is whether the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified City of Malibu LCP.

The City of Malibu submitted the subject LCP amendment on January 15, 2015. The amendment was deemed complete at the time of submittal and filed on January 15, 2015. At its March 2015

Commission meeting, the Commission extended the 60-day time limit to act on the LCP amendment for a period not to exceed one year.

The following findings support the denial of the LIP amendment, as submitted, and approval of the LIP amendment if modified as indicated in Section III (Suggested Modifications) above. The Commission hereby finds and declares as follows:

## **A. AMENDMENT DESCRIPTION AND BACKGROUND**

### **1. Description of LCP Amendment Submittal**

The City of Malibu is proposing to amend the Local Implementation Plan (LIP) portion of its certified LCP to allow for the Civic Center Wastewater Treatment Facility (CCWTF) on a property located at 24000 Civic Center Way in the City of Malibu currently zoned Visitor Serving Commercial 2 (CV-2) and to create an overlay district for the proposed treatment facility with associated development standards. The City's proposed amendment was undertaken in response to regulatory actions taken by the Los Angeles Regional Water Quality Control Board (LARWQCB) and the State Water Resources Control Board to ban discharges from onsite wastewater disposal systems (OWDSs) within a certain prohibition zone designated in the City of Malibu Civic Center area. Furthermore, the subject amendment is proposed to implement Land Use Plan (LUP) Policy 7.20 which states "Any proposed sewer system shall be submitted to and approved by the Coastal Commission as an LCP amendment prior to issuance of local permits and construction." Additionally, the amendment implements Section 18.10(D) of the LIP, which states "Any proposed sewer system shall be submitted to and approved by the Coastal Commission as an LCP amendment prior to issuance of local permits and construction. Any assessment district formed to finance construction of a public sewer system shall be considered a public works project pursuant to PRC Section 30114."

Specially, the City's proposed amendment includes the following (the full text of the proposed LCP Amendment is attached as Exhibit 1):

#### **i. Civic Center Wastewater Treatment Facility (CCWTF) Institutional Overlay District with Associated Development Standards for the LIP**

A new overlay (Civic Center Wastewater Treatment Facility Institutional Overlay District) will be placed on the property at 24000 Civic Center Way (APN: 4458-028-020 and 4458-028-006), including the former Malibu Canyon Road right-of-way that will be abandoned upon the City's acquisition of the property. The proposed overlay map will be added to the LIP Zoning Maps. Additionally, the proposed overlay will apply use restrictions and development standards over the property. The proposed overlay site is currently zoned CV-2 and contains an existing legal non-conforming wastewater treatment facility. The City determined that a new overlay district is needed that will accommodate the existing use on the site and maintain the site's underlying zoning in the event that the proposed project does not move forward, while also accommodating the proposed CCWTF project. The development standards set forth in CCWTF Institutional Overlay district are intended by the City to ensure the project will be constructed and operated in a manner that is protective of coastal resources. Currently, the LIP does not include any development standards specifically for public utility facilities. The proposed overlay

development standards are based on the certified LCP's development standards for institutional uses, with some modifications due to the nature of the proposed public utility facility use and the characteristics of the CCWTF site. Specifically, the development standards regulate setbacks, heights, siting and resource impact mitigation measures. The Institutional ("I") Zone is intended for public and quasi-public facilities in the City, including governmental facilities, and conditionally allows public utility facilities. Rather than rezone the property to the I zone, the City proposes to apply the CCWTF Institutional Overlay, which states that the proposed standards would only apply in the event the site is acquired for the CCWTF project. The CCWTF Institutional Overlay District development standards will be placed in LIP Section 3.4 (Overlay Zones).

ii. Changes to Permitted and Conditionally Permitted Uses

Amendments to the permitted and conditionally permitted uses of the LIP (Appendix 1, Table B – Permitted Uses), are proposed to ensure the treatment facility and associated ancillary infrastructure are allowable, consistent with the LCP. Currently, public utility facilities are allowed as a conditionally permitted use in the CV-1 and CV-2 zones by the LIP, as limited by footnote 4 of Table B. Footnote 4, which is applicable to a number of commercial and non-commercial uses (public and private) and requires that the identified uses devote at least 50 percent of the total floor area to visitor serving commercial use. However, because the related future wastewater treatment facility is not a commercial use, an amendment to LIP Table B footnote 4 is proposed to exempt the future treatment facility from the floor area requirement. Furthermore, the related proposed CCWTF will require ancillary infrastructure to be located in areas zoned Public Open Space (POS). Currently, public utility facilities are prohibited in the POS zone. The proposed amendment will allow for public utility facilities in the POS zone as a conditionally permitted use, but only if the facilities are ancillary specifically to the CCWTF through a new footnote 15 to LIP Table B. Lastly, wastewater storage and hauling is a prohibited use in the CV-2 zone per LIP Table B. The amendment includes a new footnote 16, to make wastewater storage and hauling a conditionally permitted use in the CV-2 zone, only when associated with the CCWTF or existing wastewater treatment facilities within the CCWTF Institutional Overlay site.

iii. LIP Chapter 18 (OWTS Ordinance)

The proposed amendment includes the addition of a new section, Section 18.10, which would include requirements and design standards for the related CCWTF, and subsequent sections would be renumbered. Additional updates to Chapter 18 (Onsite Wastewater Treatment Systems) to clarify existing standards and better organize the chapter are also proposed. Specifically, the new proposed LIP Section 18.10 addressed permitting and submittal requirements, findings and design and performance standards tailored to the unique characteristics of the related CCWTF project. These requirements will apply in addition to all the standard LCP submittal requirements and findings for a coastal development permit. Some additional housekeeping modifications to Chapter 18 are proposed to clarify how the new Section 18.10 relates to existing provisions. The amendments require an engineering report and documentation that the project complies with the requirements contained in Chapter 18 at the time of coastal development permit submittal for the CCWTF project, associated ancillary infrastructure, or future phases. Furthermore, the proposed LIP Section 18.10 provides design standards and implementation requirements such as 1) buildout design capacity of the CCWTF shall not exceed the amount of development allowed by

the land use designations and zoning, and other policies and provisions of the certified LCP; 2) project and ancillary infrastructure siting shall be designed to be the least environmentally damaging; 3) the CCWTF project shall incorporate protection measures to minimize potential environmental damage; 4) the CCWTF project shall maximize the use of reclaimed water produced by the facility and where feasible substitute reclaimed water for potable water uses; and 5) the CCWTF shall be considered a necessary water supply project. Additionally, the amendment requires the City to establish an OWTS decommissioning and wastewater connection program, and to ensure new or modified water wells in the prohibition area meet groundwater protection requirements.

iv. Miscellaneous Amendments

The proposed amendment also includes a new definition to Section 2.1 (Definitions) “Civic Center Wastewater Treatment Facility” to explicitly tie the proposed CCWTF Institutional District Overlay and other development standards to the CCWTF project specifically, and to distinguish these standards from other public utility facilities or other treatment plants unrelated to the CCWTF. Furthermore, the amendment includes language to clarify that some properties will be connecting to the proposed centralized treatment facility (CCWTF) rather than using OWTSs for wastewater disposal. Lastly, the amendment includes new language which requires approval from the City Public Works Department for any connection to a proposed treatment facility.

2. Background and CCWTF Project Description

The Civic Center Wastewater Treatment Facility project-driven LCP Amendment is being undertaken in response to regulatory action taken by the Los Angeles Regional Water Quality Control Board (LARWQCB) and the State Water Resources Control Board to ban discharges from onsite wastewater disposal systems (OWDSs<sup>1</sup>) within a certain prohibition zone (Prohibition Area) designated in the Civic Center area.<sup>2</sup> The Civic Center is the main commercial area in the City of Malibu where the general public and residents visit, and includes retail shops, restaurants, coffee shops and other commercial uses. These actions went into effect on December 23, 2010 and set forth a map and phasing schedule for implementation of the ban. The project area includes the entire area affected by the Prohibition (Exhibit 5), which consists of the Malibu Civic Center area, as well as a small portion of unincorporated Los Angeles County.

In August 2011, the City entered into a Memorandum of Understanding (MOU) with the Water Boards that details the City’s wastewater treatment plan for the Civic Center area. The MOU establishes timelines for the design and construction of a centralized municipal wastewater treatment system and for connection of properties in the affected area to the facility. Under the MOU properties in Phase 1 of the Prohibition Area (primarily the commercial core of the Civic Center) must connect by June 2017. Phase 2 (primarily residential properties) must connect by

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<sup>1</sup> Onsite wastewater treatment systems, locally known as OWTSs, are referred to as onsite wastewater disposal systems, or OWDSs. The local term OWTS will be used throughout this report.

<sup>2</sup> The RWQCB adopted Resolution No. R4-2009-007 and the State Board adopted Resolution NO. 2010-0045 amending the “Water Quality Control Plan for the Coastal Watersheds of Ventura and Los Angeles Counties,” also known as the “Basin Plan.”

November 2022. A third phase may be implemented, depending on the outcome of the first two phases.

The overall project includes construction of a new wastewater collection system, a centralized wastewater treatment facility to treat the wastewater flows from Prohibition Area properties that will no longer be discharging to an OWTS, and a new recycled water pipeline system to provide non-potable recycled water for reuse. The project will be constructed in three phases and consists of four main elements: 1) a wastewater treatment facility; 2) pump stations; 3) wastewater collection and recycled water distribution pipelines; and 4) percolation ponds and groundwater injection wells. Additionally, the project will provide disinfected tertiary treated wastewater that meets the requirements of Title 22 of the California Code of Regulations. This level of treatment will allow for the unrestricted reuse of the recycled water, and the project will maximize recycled water reuse for landscape irrigation and other non-potable uses (i.e., toilet flushing, dust control,) within the project area also known as the prohibition area. At project buildout (completion of all three phases), gallons per day (gpd) capacity will not exceed the development levels allowed by the land use designations, zoning, and other policies and provisions of the certified LCP. The project will bring wastewater collection and recycled water distribution pipelines to the property line of individual parcels. Individual property owners will be responsible for the improvements needed on their particular parcel to connect to the system. Each phase of the CCWTF project is intended to be financed through its own assessment district. The property owners will have the ability to vote to approved or disapprove the formation of the assessment district.

As delineated on the proposed CCWTF Institutional District Overlay Map, the proposed treatment plant site is a 4.08-acre site located at 24000 Civic Center Way, between Civic Center Way on the north, Pacific Coast Highway (PCH) on the south, and a vacant parcel on the west. The site has an upper terrace and lower terrace and is currently developed, in part, with a small-scale private onsite wastewater treatment facility that serves the Malibu Colony Plaza shopping center, located south of PCH and several other properties. The site also contains a small wetland and drainage course (Winter Canyon Creek), both of which are considered to be environmentally sensitive habitat areas, and 15 protected native California black walnut trees.

An EIR was prepared and adopted for the project by the City pursuant to CEQA. The City has also approved the individual coastal development permit for Phase one of the CCWTF project. However, the coastal development permit was conditioned by the City to not be effective until after certification of the subject LCP amendment. Notwithstanding the requirements of Malibu LIP Section 13.16 that a Final Local Action Notice be submitted to the Commission within seven days of City action, the Final Local Action Notice in this case has never been submitted to the Commission, and therefore, the approved CDP related to this site is not final.

The City approved on January 12, 2015, Coastal Development Permit (CDP) No. 13-057 and Condition Use Permit (CUP) No. 13-005 for phase one of the Civic Center Wastewater Treatment Facility Project. Specifically, Phase one approved under CDP No. 13-057 includes: 1) removal of the existing onsite wastewater treatment facilities (except for an underground 50,000 gallon treatment tank and existing seepage pits that will be reused), relocation of utilities, grading and site preparation; construction of onsite treatment plant facilities; 2) Legacy Park and Bluff Park pump stations; 3) wastewater collection system and recycled water distribution pipelines; and 4) Injection Wells along the north side of Malibu Road in the right-of-way. CUP No. 13-005 approved public facilities uses within the CV-1, CV-2 and POS zoning districts.

## **B. CONSISTENCY ANALYSIS AND FINDINGS**

The standard of review for the proposed amendment to the Local Implementation Plan (LIP) of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is whether the Local Implementation Plan, with the proposed amendment, would be in conformance with and adequate to carry out, the provisions of the Land Use Plan portion of the City of Malibu certified Local Coastal Program.

The subject LCP amendment includes LIP components only. The proposed amendment's consistency with the certified LUP is detailed below. In addition, the policies of Chapter 3 of the Coastal Act (PRC Sections 30200-30263) have been incorporated in their entirety in the certified City's LUP as guiding policies pursuant to Policy 1(D)(1) of the LUP

### 1. Scenic and Visual Resources

#### Coastal Act Policies

Section 30251 of the Coastal Act, which is incorporated as a policy of the Malibu Land Use Plan (LUP), requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. Specifically, Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and by local government shall be subordinated to the character of its setting.*

#### Applicable City of Malibu Land Use Plan Policies

- 6.1 The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.
  
- 6.3 Roadways traversing or providing views of areas of outstanding scenic quality, containing striking views of natural vegetation, geology, and other unique natural features, including the ocean shall be considered Scenic Roads. The following roads within the City are considered Scenic Roads:
  - a. Pacific Coast Highway
  - b. Decker Canyon Road
  - c. Encinal Canyon Road
  - d. Kanan Dume Road
  - e. Latigo Canyon Road
  - f. Corral Canyon Road
  - g. Malibu Canyon Road

h. Tuna Canyon Road

- 6.5 New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.
- 6.7 The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height, except for beachfront lots, or where found appropriate through Site Plan Review, the maximum height shall be 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or finished grade, whichever is lower. Chimneys and rooftop antennas may be permitted to extend above the permitted height of structures.
- 6.14 The height of permitted retaining walls shall not exceed six feet. Stepped or terraced retaining walls up to twelve feet in height, with planting in between, may be permitted. Where feasible, long continuous walls shall be broken into sections or shall include undulations to provide visual relief. Where feasible, retaining walls supporting a structure should be incorporated into the foundation system in a stepped or split level design. Retaining walls visible from scenic highways, trails, parks, and beaches should incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape.
- 6.15 Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public viewing areas.
- 6.22 Public works projects along scenic roads that include hardscape elements such as retaining walls, cut-off walls, abutments, bridges, and culverts shall incorporate veneers, texturing, and colors that blend with the surrounding earth materials or landscape. The design of new bridges on scenic roads shall be compatible with the rural character of the Santa Monica Mountains and designed to protect scenic views.
- 6.33 The Pacific Coast Highway corridor shall be protected as a scenic highway and significant viewshed.

**Discussion**

The Malibu LCP provides for the protection of scenic and visual resources, including views of the beach and ocean, views of mountains and canyons, and views of natural habitat areas. The LCP identifies Scenic Roads, which are those roads within the City that traverse or provide views of areas with outstanding scenic quality, or that contain striking views of natural vegetation, geology, and other unique features, including the beach and ocean. The LCP policies require that new development not be visible from scenic roads or public viewing areas. Where

this is not feasible, new development must minimize impacts through siting and design measures.

The LIP Amendment would create a new CCWTF Overlay District for a future wastewater treatment facility with specific development standards that are based on existing Institutional Development Standards, with some modifications due to the nature of the proposed future wastewater treatment facility use and the characteristics of the proposed treatment plant site. The proposed CCWTF Overlay property fronts Pacific Coast Highway, which is considered a scenic highway in the LCP. The incorporation of the proposed specific development standards will better ensure that the development of a new wastewater treatment facility is feasible, adequate for the use it is intended to serve, and is located in close proximity to existing development. The proposed LIP amendment is not in conformity with the visual resource protection policies of the City's LCP.

Coastal Act Policy 30251, as incorporated into the City's LCP, and LUP Policies 6.1, 6.3, 6.5, 6.14, 6.15, 6.22, and 6.33 require that all new development must minimize impacts to visual resources. The proposed CCWTF Institutional Overlay development standard 3.4.4(F) "Fencing and Walls" would allow a single retaining wall within required yards up to a height of 7 feet and proposed development standard 3.4.4(H) "Grading" would allow a single retaining wall up to a height of 12 feet. However, both proposed provisions 3.4.4 (F) and 3.4.4 (H) are inconsistent with LUP Policy 6.14, which states the height of permitted retaining walls shall not exceed six feet, however retaining walls up to 12 feet in height may be allowed when stepped or terraced with planting in between. Therefore, **Suggested Modification 2** modifies the proposed development standard 3.4.4(F) to only allow a single retaining wall up to 6 feet high within required yards, and modifies development standard 3.4.4(H) to allow a single retaining wall up to a height of 12 feet only when stepped or terraced, and no more than 6 ft. in height is visible from ground level. In addition, **Suggested Modification 2** deletes outside references to the Malibu Municipal Code, which is not the standard of review for the LIP. These modifications are needed to ensure that new development minimizes impacts to visual resources.

## 2. Land Use, New Development and Public Works

The following policies and provisions of the City of Malibu LCP and the Coastal Act, as incorporated into the LCP, relate to land use, new development, and public works.

### Coastal Act Policies

Section 30250(a) of the Coastal Act, which is incorporated as a policy of the Malibu Land Use Plan (LUP), requires that new residential, commercial, or industrial development is located near existing developed areas, and where it will not have significant adverse impacts, either individually or cumulatively on coastal resources. Section 30250(a) of the Coastal Act states that:

*New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other*



*than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30254 of the Coastal Act, which is incorporated as a policy of the Malibu Land Use Plan (LUP), requires that new or expanded public works facilities be “designed and limited” to accommodate development that can be permitted consistent with the policies of the Coastal Act. Specifically, Section 30254 of the Coastal Act states that:

*New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal development land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.*

#### City of Malibu Land Use Plan Policies

- 5.48 A water conservation and wastewater recycling program should be developed in coordination with Los Angeles County and the applicable water purveyors for respective water service areas.
- 5.50 The installation of reclaimed water lines to provide irrigation for approved landscaping or fuel modification areas (Zone A or B, if required) for approved development may be permitted, if consistent with all policies of the LUP.
- 5.51 The use of reclaimed water in lieu of fresh water supplies for the maintenance of public lands and other non-consumptive uses shall be encouraged and supported provided such use can be found to be consistent with all applicable policies of the LCP.
- 5.52 Landscaping and/or irrigation of ESHA for the purpose of disposing of reclaimed water shall be prohibited.
- 7.18 The construction of public package wastewater treatment facilities may be permitted where it is demonstrated to be the preferable long-term wastewater management solution, where it is designed to not exceed the capacity for growth allowed in the LCP, and where it can be constructed consistent with all policies of the LCP.
- 7.19 A City-wide public sewer system may be designed and proposed, in consultation with the Department of Health Services and Public Works where it is found to be the least environmentally damaging wastewater treatment alternative, where it is designed to serve a capacity of development which does not exceed the amount allowed by the LCP, and where it is found to be consistent with all other policies of the LCP. In particular, the

proposed method of effluent disposal shall be required to be consistent with policies requiring the protection of marine resources, riparian habitat and water quality.

- 7.20 Any proposed sewer system shall be submitted to and approved by the Coastal Commission as an LCP amendment prior to issuance of local permits and construction.

In addition, the following certified City of Malibu Local Implementation Plan (LIP) sections are specifically applicable in this case.

LIP Section 18.10(D), in relevant part, states:

Any proposed sewer system shall be submitted to an approved by the Coastal Commission as an LCP amendment prior to issuance of local permits and construction. Any assessment district formed to finance construction of a public sewer system shall be considered a public works project pursuant to PRC Section 30114.

## **Discussion**

In order to ensure that new development is located in areas able to accommodate it and where it will not have significant cumulative impacts on coastal resources, as required by Section 30250 of the Coastal Act and Malibu LUP, it is necessary for the LCP to designate the appropriate location, density, and intensity for different kinds of development. Such designations must also take into account the requirements of other applicable polices of the City's LCP, including public access, recreation, land and marine resources, and scenic and visual quality.

The proposed LIP amendment incorporates a new overlay (Civic Center Wastewater Treatment Facility Institutional Overlay District) to be placed over the property at 24000 Civic Center Way (APN: 4458-028-020 and 4458-028-006), including the former Malibu Canyon Road right-of-way. The proposed overlay will apply use restrictions and development standards over the property. The proposed overlay site is currently zoned CV-2 and contains an existing legal non-conforming treatment facility. A new overlay district is needed that will accommodate the existing use on the site and maintain the site's underlying zoning in the event that the proposed project does not move forward, while also accommodating the proposed CCWTF project. The development standards set forth in CCWTF Institutional Overlay District are intended to ensure the project will be constructed and operated in a manner that is protective of coastal resources. The proposed overlay development standards are based on the City's current Institutional development standards, with some modifications due to the nature of the proposed public utility facility use and the characteristics of the CCWTF site.

The new proposed CCWTF Institutional Overlay District will provide for the construction of a wastewater treatment plant to serve commercial and residential uses in the Malibu Civic Center and adjacent areas. The plant site will be in close proximity to the uses it is intended to serve. A public wastewater treatment facility development on the subject overlay parcels would allow the clustering of development within or near an existing development area able to accommodate the future proposed development. Therefore, the Commission finds that this proposed amendment to incorporate a new overlay is consistent with and adequate to carry out the requirements of Section 30250 of the Coastal Act.

LUP Policy 5.51 encourages the use of reclaimed water in lieu of fresh water supplies for the maintenance of public lands and other non-consumptive uses provided such use can be found to be consistent with all applicable policies of the LCP. Consistent with LUP Policy 5.51, the proposed amendment requires the proposed future wastewater treatment facility to maximize the use of reclaimed water produced by the facility and where possible, to substitute the reclaimed water for potable water uses. In addition, the amendment considers the future CCWTF project to be a necessary water supply project (within the meaning of Section 30236 of the Coastal Act); however the LIP does not include any provisions to adequately carry out the proposed provision to require the CCWTF to maximize the use of reclaimed water. Therefore, **Suggested Modification 4** modifies proposed LIP Section 18.10 (B) to require the proposed CCWTF to maximize the use of reclaimed water produced by the facility and, where feasible, to substitute the reclaimed water for potable water uses. Furthermore, **Suggested Modification 4** inserts a new provision (LIP Section 18.10(C) and 18.10 (D)) for the CCWTF project, which is considered a necessary water supply project, to require all new development approved within the Prohibition Area to be conditioned to install all necessary plumbing and other improvements to allow the development to connect to reclaimed water lines when they are available and make the maximum feasible use of reclaimed water. Also, this suggested modification requires the City to encourage the retrofit of existing development to connect to reclaimed water lines when available and the substitution of reclaimed water for as many existing potable water uses as feasible. Furthermore, **Suggested Modification 5** is necessary to depict the boundaries of the Prohibition Area, that is subject to the regulatory actions taken by the Los Angeles Regional Water Quality Control Board and the State Water Resources Control Board to ban discharges from onsite wastewater disposal systems, in the LIP by adding “Civic Center Prohibition Area Map” (attached as Exhibit 5 of this staff report) as a map in Appendix 2 of the Local Implementation Plan.

Consistent with LUP Policy 5.52, which states landscaping and/or irrigation of ESHA for the purpose of disposing of reclaimed water shall be prohibited, the Commission finds it necessary to require the City to incorporate **Suggested Modification No. 4**, which inserts a new system design and performance requirement (LIP Section 18.10(E)(8)) that restricts the removal of environmentally sensitive habitat area (ESHA) for the purpose of installing landscaping for the purpose of disposing of reclaimed water. Also, the irrigation of ESHA with reclaimed water shall also be prohibited.

Furthermore, the subject amendment is proposed to implement Land Use Plan (LUP) Policy 7.20 which states “Any proposed sewer system shall be submitted to and approved by the Coastal Commission as an LCP amendment prior to issuance of local permits and construction.” Additionally, the amendment implements Section 18.10(D) of the LIP, which states “Any proposed sewer system shall be submitted to an approved by the Coastal Commission as an LCP amendment prior to issuance of local permits and construction. Any assessment district formed to finance construction of a public sewer system shall be considered a public works project pursuant to PRC Section 30114.” Consistent with LUP Policy 7.18, the proposed amendment incorporates provisions which requires a coastal development permit for a future wastewater treatment facility shall only be approved if the City makes all applicable findings required in the LCP and makes the findings that the proposed project is designed to serve a capacity of development that does not exceed the amount allowed by the LCP. Therefore, the proposed amendment limits the capacity of a future public sewer system to be designed in a manner that is not growth inducing.

3. Environmentally Sensitive Habitat Area

The following Coastal Act policies have been incorporated into their entirety into the certified City of Malibu Land Use Plan as policies.

Coastal Act Policies

Section 30240 of the Coastal Act, which has been incorporated in the certified Malibu LCP, states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30231 of the Coastal Act, which is incorporated as part of the Malibu Land Use Plan (LUP), states, in relevant part:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organism and for the protection of human health shall be maintained and where feasible, restored through, amount other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30233 of the Coastal Act, which is incorporated as part of the Malibu Land Use Plan (LUP), states, in relevant part:

*(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

*(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*

*(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*

*(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision*

*(b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*

*(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*

*(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*

*(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*

*(7) Restoration purposes.*

*(8) Nature study, aquaculture, or similar resource dependent activities.*

Section 30236 of the Coastal Act, which is incorporated as part of the Malibu Land Use Plan (LUP), states:

*Channelization, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.*

### City of Malibu Land Use Plan Policies

- 3.1 Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments are Environmentally Sensitive Habitat Areas (ESHAs) and are generally shown on the LUP ESHA Map. The ESHAs in the City of Malibu are riparian areas, streams, native woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem. Regardless of whether streams and wetlands are designated as ESHA, the policies and standards in the LCP applicable to streams and wetlands shall apply. Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.
- 3.8 Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

- 3.12 No development shall be allowed in wetlands unless it is authorized under Policy 3.89. For all ESHA other than wetlands, the allowable development area (including the building pad and all graded slopes, if any, as well as permitted structures) on parcels where all feasible building sites are ESHA or ESHA buffer shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. If it is demonstrated that it is not feasible from an engineering standpoint to include all graded slopes within the approved development area. For parcels over 40 acres in size, the maximum development area may be increased by 500 sq. ft. for each additional acre in parcel size to a maximum of 43,560-sq. ft. (1-acre) in size. The development must be sited to avoid destruction of riparian habitat to the maximum extent feasible. These development areas shall be reduced, or no development shall be allowed, if necessary to avoid a nuisance, as defined in California Civil Code Section 3479. Mitigation of adverse impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be required.
- 3.14 New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impact shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternatives that would avoid impacts to ESHA.
- 3.23 Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. All buffers shall be a minimum of 100 feet in width, except for the case addressed in Policy 3.27.
- 3.26 Required buffer areas shall extend from the following points:
- a. The outer edge of the canopy of riparian vegetation for riparian ESHA.
  - b. The outer edge of the tree canopy for oak or other native woodland ESHA.
  - c. The top of bluff for coastal bluff ESHA.
- 3.28 Variances or modifications to buffers or other ESHA protection standards shall not be granted, except where there is no other feasible alternative for siting the development and it does not exceed the limits on allowable development pursuant to Policies 3.10-3.13.
- 3.32 Channelization or other substantial alterations of streams shall be prohibited except for: 1) necessary water supply projects where no feasible alternative exists; 2) flood protection for existing development where there is no other feasible alternative, or 3) the improvement of fish and wildlife habitat. Any channelization or stream alteration permitted for one of these three purposes shall minimize impacts to coastal resources,

including the depletion of groundwater, and shall include maximum feasible mitigation measures to mitigate unavoidable impacts. Bioengineering alternatives shall be preferred for flood protection over “hard” solutions such as concrete or riprap channels.

- 3.63 New development shall be sited and designed to preserve oak, walnut, sycamore, alder, toyon, or other native trees that are not otherwise protected as ESHA. Removal of native trees shall be prohibited except where no other feasible alternative exists. Structures, including roads or driveways, shall be sited to prevent any encroachment into the root zone and to provide an adequate buffer outside of the root zone of individual native trees in order to allow for future growth.
- 3.65 Where the removal of native trees cannot be avoided through the implementation of project alternatives or where development encroachments into the protected zone of native trees result in the loss or worsen health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of 10 replacement trees for every 1 tree removed. Where on-site mitigation is not feasible, off-site mitigation shall be provided through planting replacement trees or by providing an in-lieu fee, based on the type, size and age of the tree(s) removed.
- 3.83 Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens shall be designated as wetland. Identified wetlands include Malibu and Zuma Lagoons. Any unmapped areas that meet these criteria are wetlands and shall be accorded all of the protections provided for wetlands in the LCP.
- 3.84 Any wetland area mapped as ESHA or otherwise determined to have previously been wetlands shall not be deprived of protection, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, filled, degraded, or that species of concern have been illegally eliminated.
- 3.87 The biological productivity and the quality of wetlands shall be protected and, where feasible, restored.
- 3.88 Buffer areas shall be provided around wetlands to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the wetland they are designed to protect, but in no case shall they be less than 100 feet in width.
- 3.89 The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes may be permitted in accordance with all policies of the LCP, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
- a. Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
  - b. Restoration purposes.

c. Nature study, aquaculture, or similar resource dependent activities.

Other uses specified in Section 30233 of the Coastal Act may only be allowed pursuant to an LCP amendment. (Resolution No. 07-04)

- 3.126 Wastewater discharges shall minimize adverse impacts to the biological productivity and quality of coastal streams, wetlands, estuaries, and the ocean. On-site treatment systems (OSTSs) shall be sited, designed, installed, operated, and maintained to avoid contributing nutrients and pathogens to groundwater and/or surface waters.
- 3.138 The expansion of existing community sewer facilities (package wastewater treatment plants, dedicated sewer service systems, existing truck lines, etc.) in existing developed areas shall be limited in capacity to the maximum level of development allowed by the LUP.

## **Discussion**

Section 30231 requires that the biological productivity and quality of coastal waters be maintained. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas (ESHA) shall be protected and that development within or adjacent to such areas must be designed to prevent impacts which could degrade those resources. Section 30236 limits channelization, dams, or other substantial alterations of rivers and streams to only three purposes: necessary water supply; protection of existing structures where there is no feasible alternative; or improvement of fish and wildlife habitat. Section 30233 provides that the diking, filling, or dredging of open coastal waters, wetlands, or estuaries may only be permitted where there is no less environmentally damaging alternative and restricted to a limited number of allowable uses.

The proposed treatment plant site, located at 24000 Civic Center Way, has an upper terrace and lower terrace and is currently developed, in part, with a small-scale private onsite wastewater treatment facility. The site also contains a small wetland and drainage course (Winter Canyon Creek), both of which are considered to be environmentally sensitive habitat area, and 15 protected native California black walnut trees. Furthermore, the Prohibition Area that the future CCWTF will service contains areas designated as ESHA on the City of Malibu LCP ESHA Map, including Malibu Creek and Malibu Lagoon. The proposed LIP amendment incorporates a new overlay (Civic Center Wastewater Treatment Facility Institutional Overlay District) to be placed over the property at 24000 Civic Center Way (APN: 4458-028-020 and 4458-028-006), including the former Malibu Canyon Road right-of-way. The development standards set forth in CCWTF Institutional Overlay district are intended to ensure the project will be constructed and operated in a manner that is protective of coastal resources, including ESHA and wetlands. The proposed overlay development standards are based on the City's current Institutional Development Standards, with some modifications due to the nature of the proposed public utility facility use and the characteristics of the CCWTF site. Specifically, the development standards regulate setbacks, heights, siting and resource impact mitigation measures.

The proposed overlay will apply use restrictions and development standards over the property to require development to be sited to avoid impacts to ESHA. Specifically, proposed LIP Section



3.4.4 (C) “Siting” requires the siting of the future CCWTF and offsite pipelines and ancillary infrastructure to avoid impacts to ESHA as much as feasible and includes mitigation measures for any ESHA impacts. Proposed LIP Section 3.4.4(C) is included as part of the CCWTF Institutional Overlay District provisions. However, the overlay provisions only apply to the two parcels and the Malibu Canyon Road right-of-way. Therefore, the CCWTF Overlay District provisions do not apply to the areas outside the overlay, such as the offsite locations for the offsite pipelines and ancillary infrastructure. In order to ensure that all offsite pipelines and ancillary infrastructure are sited and designed to protect environmentally sensitive habitat areas and are consistent with Sections 30231, 30233, 30240 and 30236 of the Coastal Act, **Suggested Modification 2 and 4**, are necessary to relocate the proposed LIP Section 3.4.4(C)(1)(b) from the CCWTF Institutional Overlay District to the proposed LIP Section 18.10, which sets forth requirements and design standards for the future CCWTF project.

In addition, proposed LIP Section 3.4.4 (C)(1)(a) allows for a reduced ESHA buffer that would only apply within the overlay zone and only for the future wastewater treatment facility. As proposed, LIP Section 3.4.4(C)(1)(a) is inconsistent with LUP Policy 3.28 which states that modifications to buffers or other ESHA protection standards shall not be granted, except where there is no other feasible alternative for siting the development. In addition, LUP Policy 3.14 states that new development shall be sited and designed to avoid impacts to ESHA, if there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. While the LUP policies allow for a reduced ESHA buffer, the LUP only allows the reduction when there is no other feasible alternative for siting the development. Therefore, to ensure that proposed LIP Section 3.4.4(C)(1) conforms to the applicable LUP policies, **Suggested Modification 2** modifies the proposed development standard 3.4.4(C)(1)(a) to only allow for a reduced ESHA buffer when there is no feasible alternative for the siting of the development.

Further, LUP policies 3.63 and 3.65 require the protection of native trees and that new development include mitigation for unavoidable impacts to native trees. Section 5.5 of the LIP provides the mitigation requirements, which include the planting of replacement trees, at a ratio of 10:1, on the project site where feasible, or offsite when on-site planting is not feasible. This section also provides for the payment of an in-lieu fee where neither on-site nor off-site planting is feasible. **Suggested Modification 2** includes minor revisions to LIP Section 3.4.4(C)(2) “Native Trees” to insert all the mitigation measures provided under LIP Section 5.5 “Mitigation” for tree removal or tree encroachment that was omitted from the proposed amendment LIP Section 3.4.4(C)(2) “Native Trees.” Similarly, LUP Policy 3.14 requires mitigation for unavoidable impacts to ESHA. LIP Section 4.8 details three different ways that the required mitigation can be provided: 1) the conservation of an equivalent acreage of habitat similar to the impacted habitat; 2) the restoration of an equivalent acreage of similar habitat type; and 3) the payment of an in-lieu fee to be used for the acquisition of similar habitat. The proposed LCPA only includes the payment of an in-lieu fee as mitigation for unavoidable ESHA impacts. In order to ensure that these provisions of the proposed LCPA will conform to the LUP and be internally consistent with the LIP, **Suggested Modification 4** inserts all the mitigation measures for impacts to ESHA provided under LIP Section 4.8 “Mitigation” that was omitted from the proposed LIP Section 3.4.4(C)(1)(a)(v.) and LIP Section 3.4.4(C)(1)(b)(ii).

4. Hazards

Coastal Act Policies

Section 30253 of the Coastal Act, which is incorporated as part of the City of Malibu LCP, states, in part, that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

City of Malibu Land Use Plan Policies

- 4.2 All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.
- 4.3 Information should be provided to the public concerning hazards and appropriate means of minimizing the harmful effects of natural disasters upon persons and property relative to siting, design and construction.

**Discussion**

Development within the City, including roads and other infrastructure is highly vulnerable to a variety of natural hazards including threats from landslides, wild fires, earthquakes, storm waves, and flooding. The LUP contains a number of policies which provide for the siting, design and construction of new development in a manner and/or location which minimizes risks from geologic, flood and fire hazard

As delineated on the proposed CCWTF Intuitional District Overlay Map, the proposed treatment plant site is a 4.08-acre site located at 24000 Civic Center Way, between Civic Center Way on the north, Pacific Coast Highway (PCH) on the south, and a vacant parcel on the west. The site has an upper terrace and lower terrace and is currently developed with an existing wastewater treatment facility. The proposed CCWTF Overlay site and the Prohibition Area is located in a seismically active area of Southern California, and may experience severe shaking in the future from the Malibu Coast Fault and other nearby faults. The future CCWTF project will require pipelines to cross over portions of the Malibu Coast Fault.

While it is impossible to completely prevent structural damage to buildings, infrastructure and loss of life as a result of seismic events, geologic and seismic hazards can be reduced by employing setbacks, foundation and infrastructure design to accommodate some movement. Therefore, in order to ensure that new pipelines that cross portions of the Malibu Coast Fault are designed to minimize risks to life and property from geologic hazards, **Suggested Modification 4** inserts LIP Section 18.10(H)(8) which requires all segments of pipeline crossing over any portion of the Malibu Coast Fault shall be designed to resist earth movement to the extent feasible through the use of flexible piping material

5. LCP Administration

There are several proposed revisions which relate to the administration of the LCP and the processing of coastal development permits. **Suggested Modifications 1, 3, 4 and 6** are minor changes that are necessary to clarify the proposed LIP Section 2.1 (Definitions) “Civic Center Wastewater Treatment Facility” definition and proposed LIP Section 18.3 “Malibu Valley Groundwater Basin” definitions; clarify the filing requirements for coastal development permits under LIP Section 13.6.4 “Application Form and Information Requirements,” and to modify the CCWTF Institutional Overlay District Map to add a legend/key to depict which parcels are subject to the overlay. Additionally, these minor modifications are necessary to ensure consistency with the LCP, such as deleting outside references to documents that are not part of the standard of review for the LCP; correct the titles of proposed LIP Sections to be consistent with the LUP and LIP; and make minor clarifications that further the intent and implementation of the LCP and where the lack of information may cause inadequate interpretation and implementation of the LCP.

6. Conclusion

For the reasons stated above, the Commission finds that, if modified by the City as suggested, will the LIP amendment conform with and be adequate to carry out the applicable policies of the certified Land Use Plan.

## V. CALIFORNIA ENVIRONMENTAL QUALITY ACT

California Public Resources Code (PRC) Section 21080.9 – within the California Environmental Quality Act (CEQA) – exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with their activities and approvals necessary for the preparation and adoption of a local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, because the Natural Resources Agency found the Commission’s LCP review and approval program to be functionally equivalent to the EIR process, *see* 14 C.C.R §15251(f), PRC Section 21080.5 relieves the Commission of the responsibility to prepare an EIR for its review of and action on LCP provisions. Nevertheless, some elements of CEQA continue to apply to this review process.

Specifically, pursuant to CEQA and the Commission’s regulation (see 14 C.C.R. §§ 13540(f), 13542(a), and 13555(b)), the Commission’s certification of this LCP amendment must be based in part on a finding that it meets the CEQA requirements listed in PRC section 21080.5(d)(2)(A). That section requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Local Implementation Plan amendment has been found not to be in conformity with, or adequate to carry out, the provisions of the Land Use Plan portion of the certified LCP. To resolve the concerns identified, the Commission suggests modifications discussed in detail above, that will ensure that the Implementation Plan is adequate to carry out and is in conformity with the Land Use Plan. The suggested

modifications minimize or mitigate any potentially significant environmental impacts of the LCP amendment. If modified as suggested, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

The Commission finds that for the reasons discussed in this report, if the LCP amendment is modified as suggested, there are no additional feasible alternatives or feasible mitigation measures available that could substantially reduce any adverse environmental impacts. The Commission further finds that the proposed LCP amendment, if modified as suggested, is consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.

## **APPENDIX A**

### **Substantive File Documents**

City of Malibu Ordinance No. 386 approving LCP Implementation Plan Amendment 13-002; City of Malibu Resolution No. 15-05 approving CDP No. 13-057; Final Environmental Impact Report for the Malibu Civic Center Wastewater Treatment Facility Project, by RMC Water and Environment, dated November 2014; certified City of Malibu Local Coastal Program.

## **Summary of Changes to the Local Implementation Plan (LIP) Malibu Local Coastal Program (LCP)**

### **Civic Center Wastewater Treatment Facility (CCWTF) Institutional Overlay District City of Malibu LCPA No. 13-002**

Note: For purposes of this summary, the existing LIP language is shown in straight type. The language proposed to be deleted is shown in ~~strike through~~. The language proposed to be inserted is shown as underlined.

This summary corresponds with City Council Ordinance No. 386.

### **This LCPA includes 15 amendments (titled A through O) to the following elements of the Malibu LCP:**

1. LIP text and section numbering
2. LIP zoning maps
3. LIP Table B (Permitted Uses) – an exhibit of LIP Chapter 3 (Zoning Designations and Permitted Uses)

\*No changes to the LCP Land Use Plan (LUP) are proposed or required.

### **The proposed amendments consist of five main components:**

1. Civic Center Wastewater Treatment Facility (CCWTF) Institutional Overlay District with associated development standards for the LIP;
2. Changes to permitted and conditionally permitted uses and new definitions in the LIP to accommodate the facility, including the treatment plant itself and ancillary components such as pipelines and pump stations;
3. CCWTF Overlay District Map for the LIP Zoning Map;
4. Miscellaneous LIP section numbering and text updates associated with the overlay; and
5. Updates to LIP Chapter 18 (Onsite Wastewater Treatment Systems) to establish system design and permitting requirements for the treatment facility.

**Exhibit 1  
City of Malibu Proposed LCP  
Amendment Text  
LCP-4-MAL-15-0001-1**

**A. Add a new definition to LIP Section 2.1 (Definitions) to read as follows:**

“CIVIC CENTER WASTEWATER TREATMENT FACILITY” (CCWTF) means a public utility facility to be constructed in the Malibu Civic Center area in response to the prohibition on discharges from onsite wastewater treatment systems adopted by the Los Angeles Regional Water Quality Control Board in Resolution No. R4-2009-007 and the State Water Quality Control Board in Resolution No. 2010-0045, in order to provide centralized municipal wastewater treatment facilities to affected properties.

**B. Insert a new section as LIP §3.4.4 titled “Civic Center Wastewater Treatment Facility Institutional Overlay District” to read as follows:**

3.4.4 Civic Center Wastewater Treatment Facility (CCWTF) Institutional Overlay District (24000 Civic Center Way / APNs 4458-028-060 and 4458-028-020)

A. The provisions of this section shall only apply in the event the subject property is acquired by a public agency or special district and committed to use for the Civic Center Wastewater Treatment Facility.

B. The Institutional Property Development and Design Standards contained in LIP Section 3.9, as well as all other applicable LCP provisions, shall apply, unless specifically modified by this section.

C. Siting

1. Environmentally Sensitive Habitat Area. The CCWTF is a necessary water supply project with incidental public service components (per LIP Section 18.10(B)). The project shall comply with applicable provisions of LIP Chapter 4, such as but not limited to siting the project to avoid impacts to ESHA and to provide the minimum required ESHA buffers, except as otherwise provided below:

a. CCWTF treatment plant site. LIP Section 4.6.4(A) (Variances) shall not apply and a reduced ESHA buffer may be allowed if all of the following requirements are met:

- i. The treatment plant facilities are sited within the previously approved and disturbed development area as much as feasible.
- ii. The required driveway is located along the existing unpaved driveway as much as possible.
- iii. Any required fuel modification that encroaches into ESHA buffer is limited to thinning only.

- iv. Any onsite pipelines and equipment that must be located within 100 feet of ESHA shall be installed under pavement or within previously disturbed areas as much as feasible.
  - v. The square footage of reduced ESHA buffer area is offset with ESHA enhancement elsewhere on the site on a one to one basis. The ESHA enhancement shall be incorporated into the site landscape plan reviewed and approved by the City Biologist.
- b. Offsite pipelines and ancillary infrastructure,
- i. Pipelines and ancillary infrastructure associated with the project, such as but not limited to pump stations, generators, and wells not located on the treatment plant site, shall be located underground whenever feasible and/or in disturbed areas, especially under existing paving, as much as possible to avoid ESHA, native trees, trails, public recreational use areas (such as within parks), and visual impacts.
  - ii. Any temporary impacts to ESHA from excavation, trenching, or other construction disturbance shall be fully restored. Permanent impacts to or loss of ESHA shall be offset by payment of an in lieu fee in accordance with LIP Section 4.8.1(C). The applicant shall provide a preliminary calculation of any impact areas for review and approval by the City Biologist as part of the CDP application and a final calculation prior to issuance of a grading permit for the development affecting the ESHA resources.
2. Native Trees. The project shall be designed to avoid impacts to protected native trees as defined in LIP Chapter 5; however, where impacts to protected native trees cannot be feasibly be avoided, impacts shall be minimized. Such impacts shall only be allowed if, as a condition of approval of a coastal development permit for the development, the applicant shall be required to: 1) implement a tree protection plan prepared in accordance with LIP Section 5.3 and approved by the City Biologist for trees that will not be removed; and 2) pay the in lieu fee required by LIP Section 5.5.2(b) for trees that are removed, prior to the issuance of a grading permit for the development affecting the protected trees.
- D. Yards/Setbacks. LIP Section 3.9(A)(2) shall apply except that the front yard setback shall be 5 feet.
- E. Height. LIP Section 3.9(A) shall apply except that structure height up to 28 feet shall be allowed without the requirement of a site plan review under LIP Section 13.27.1(A)(8).



F. Fencing and Walls. LIP Section 3.5.3(A) shall apply except that the portion of fence above 42 inches within any required yard need not be visually permeable where it serves as screening for structures or equipment. Vegetative screening within or outside of required yards shall not be limited in height except where such screening would block the primary view of any affected residence as described in Malibu Municipal Code Section 17.40.040(A)(17), or would significantly impede public views of scenic areas. Additionally, single retaining walls within required yards may extend to a height of up to 7 feet, so long as such walls incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape when they are visible from surrounding public and private properties and rights of way.

G. Parking and Loading. LIP Sections 3.14.5 and 3.14.6 shall not apply.

H. Grading. LIP Chapter 8 shall apply except that a single retaining wall up to a height of 12 feet shall be allowed and all grading associated with access driveways shall be included in the exception from grading limitations of LIP Section 8.3(I).

I. Visual Impacts / Screening. Structures and equipment shall be designed to minimize visual impacts using methods including, but not limited to: locating development below ground level where possible; utilizing landscape screening to soften views of the development and allow it to blend with the surrounding environment; and incorporating design measures like walls, fencing, and building and lighting orientations that help to contain operational sounds and odors, screen site development from nearby properties and public viewing areas, and avoid offsite light spill.

**C. Revise existing section LIP §13.6.4(H), (I) and (J) to read as follows:**

13.6.4 Application Form and Information Requirements

The coastal development permit application form shall require the submittal of at least the following items:

H. For development relying on an ~~On-Site~~ Onsite Wastewater Treatment System, a Septic Plot Plan, prepared by an Environmental Health Specialist that shall include a percolation testing report and septic system design of adequate size, capacity and design to serve the proposed development for the life of the project. Development that will be connected to the Civic Center Wastewater Treatment Facility shall obtain approval from the City Public Works Department for the connection.

I. For applications for land divisions:

1. A report prepared by a registered groundwater hydrologist and Environmental Health Specialist that addresses the ability of each proposed building site to accommodate a sewage disposal system, including an analysis of depth to groundwater that addresses seasonal and cyclical variations as well as the adequacy of percolation rates in post-grading conditions (cut or compacted fill); properties that will be connected to the Civic Center Wastewater Treatment Facility shall obtain approval from the City Public Works Department for the connection;

- J. For applications for water wells, a groundwater hydrological study that analyzes the individual and cumulative impacts the well may have on groundwater supplies and the potential individual and cumulative impacts the well may have on adjacent or nearby streams, springs, or seeps and their associated riparian habitat. Additionally, new proposed water wells located within the Malibu Valley Groundwater Basin must comply with groundwater management requirements of the California Department of Public Health.

**D. Revise existing LIP §15.2(B)(8) to read as follows:**

- B. A land division shall not be approved unless the City finds that the proposed land division:

8. Does not create any parcels without the appropriate conditions for a properly functioning onsite wastewater treatment system or connection to the Civic Center Wastewater Treatment Facility (if applicable), or without an adequate water supply for domestic use. All required approvals certifying that these requirements are met must be obtained;

**E. Add a new definition to LIP §18.3 – Definitions to read as follows:**

“MALIBU VALLEY GROUNDWATER BASIN” means a small alluvial basin located along the Los Angeles County coastline within the City of Malibu. The basin is bounded by the Pacific Ocean on the south and the non water-bearing Tertiary rocks on all remaining sides. The valley is drained by Malibu Creek to the Pacific Ocean. Average annual rain precipitation ranges from 14 to 16 inches. The groundwater is found principally in Holocene alluvium which consists of clays, silts, sands and gravels. Thickness of the alluvium ranges from 90 feet at the upper end to more than 140 feet at the lower end. Recharge of the basin is from percolation of precipitation, runoff, and effluent from Onsite Wastewater Treatment Systems.

**F. Clarify the existing heading of LIP §18.4 to read as follows:**

18.4. OWTS PERMIT APPLICATION AND OTHER GENERAL REQUIREMENTS

**G. Relocate existing LIP §18.6 Management Program to §18.9; renumber subsequent sections; and update all existing references throughout LCP for all affected sections.**

**H. Clarify the heading of renumbered LIP §18.6 to read as follows:**

18.6. OWTS SITING, DESIGN AND PERFORMANCE REQUIREMENTS

**I. Clarify the heading of renumbered LIP §18.8 to read as follows:**

18.8. OWTS MAINTENANCE, OPERATION AND MONITORING

**J. Clarify the heading of LIP §18.9 to read as follows:**

18.9. OWTS MANAGEMENT PROGRAM

**K. Insert a new section titled "Civic Center Wastewater Treatment Facility" at LIP §18.10 to read as follows:**

18.10. CIVIC CENTER WASTEWATER TREATMENT FACILITY

A. CDP Required. A CDP shall be required for construction of each phase of the Civic Center Wastewater Treatment Facility (CCWTF), including associated infrastructure. Where system maintenance, minor modifications or ancillary equipment fall within the exceptions allowed pursuant to LIP Section 13.4, the requirement for a CDP for such development shall not apply.

B. The Regional Water Quality Control Board requires the CCWTF to maximize the use of reclaimed water produced by the facility and, where possible, to substitute the reclaimed water for potable water uses. As such, for purposes of LIP Chapter 4 (ESHA) and LIP Chapter 17 (Water Quality), the CCWTF shall be considered a necessary water supply project that includes incidental public service purposes, including but not limited to, burying cables and pipes or inspection and maintenance.

C. Supplementary Application Requirements. In addition to any other application materials required by this LCP, the application for a CDP for the CCWTF and any future phase shall include the following:

1. An engineering report that includes a project description and the basis of design for collection system flows, anticipated treatment system performance requirements, construction requirements, effluent disposal methods, water reclamation capacity and a facility site plan.
2. Documentation that the project complies, or will comply, with the requirements contained in this chapter and anticipated Wastewater Discharge Requirements and/or Water Reclamation Requirements to be issued by the Regional Board (with input from the California Department of Public Health for water reclamation).

D. Findings. A CDP for the CCWTF or modifications to the facility shall only be approved if the City makes all applicable findings required in the LCP and the following:

1. The proposed project is designed to serve a capacity of development that does not exceed the amount allowed by the LCP.
2. The proposed project is consistent with regulatory requirements of the City of Malibu and applicable agencies, including but not limited to, the Regional Water Quality Control Board.
3. The project, including any proposed new or modified method of effluent disposal, is consistent with policies requiring protection of marine resources, riparian habitat and water quality.

E. System Design and Performance Requirements.

1. The build out design capacity of the CCWTF, including all phases, shall not exceed the amount of development allowed by the LCP.
2. The project shall comply with the requirements contained in this chapter, current Guidelines of the Regional Board or such other requirements of the City of Malibu, whichever are more stringent.
3. The CCWTF treatment plant and all associated infrastructure shall be sited and designed in conformance with LIP Section 3.4.4 and all applicable LCP policies and standards.
4. Pipeline crossings of streams and/or encroachment into riparian/wetland areas shall be kept to a minimum; where necessary, such crossings or encroachments shall be sited in disturbed areas or underground to the

extent feasible, and shall be designed to be the least environmentally damaging alternative, given consideration of both construction and operation/maintenance.

5. Effluent disposal methods shall be the least environmentally damaging feasible alternatives, and shall maximize reuse of recycled wastewater as much as feasible in accordance with LCP policies.
6. The facility shall incorporate industry-standard fail safes, redundancies, and other such secondary protection measures as necessary to minimize the potential for environmental damage.
7. Implementation of the project following CDP approval shall include an OWTS decommissioning and wastewater connection program designed in accordance with Regional Board and Uniform Plumbing Code requirements and which sets forth procedures and requirements for the disposition of existing OWTS and connection to the CCWTF.

**L. Renumber existing LIP §18.10 Water Systems/Wastewater Management as LIP §18.11.**

**M. Insert a new section as LIP §18.11(F) to read as follows:**

F. Once the CCWTF begins operating, new or modified water wells within the Malibu Valley Groundwater Basin shall be allowed only in accordance with the groundwater protection zone requirements established by the California Department of Public Health.

**N. Amend LIP Table B (Permitted Uses) to make the following modifications within the “CV-2” and “OS” zone columns as indicated, together with modified and additional footnotes. All other portions of Table B shall remain unaffected.**

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
<b>PUBLIC, QUASI-PUBLIC, OR NON-PROFIT USES</b>																
Public utility facilities	CUP	CUP	CUP	CUP	•	•	•	CUP	CUP	CUP <sup>4</sup>	CUP <sup>4</sup>	CUP	<u>CUP<sup>15</sup></u> •	CUP	•	•

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP	
<b>PUBLIC, QUASI-PUBLIC, OR NON-PROFIT USES</b>																	
Wastewater storage and hauling	.	.	.	.	.	.	.	.	.	.	.	CUP <sup>16</sup>	CUP	.	.	.	.

Notes

1. Subject to Residential Development Standards (Section 3.6)
2. Subject to Home Occupations Standards [(Section 3.6(O))]
3. Use Prohibited in Environmentally Sensitive Habitat Areas
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals
6. Maximum interior occupancy of 125 persons
7. If exceeding interior occupancy of 125 persons
8. By hand only
9. Use permitted only if available to general public
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Section 4.6.2 and 6.5(G)
12. Limited to public agency use only (not for private use)
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only
14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.
15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including but not limited to injection wells, generators, and pump stations.
16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with an existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.

**O. Insert a new map titled “Civic Center Wastewater Treatment Facility Institutional Overlay District Map” into the LIP Zoning Maps.**

JAN 20 2015

Received

ORDINANCE NO. 386

AN ORDINANCE OF THE CITY OF MALIBU APPROVING LOCAL COASTAL PROGRAM AMENDMENT NO. 13-002, ZONING TEXT AMENDMENT NO. 13-008, AND ZONING MAP AMENDMENT NO. 13-003 TO ESTABLISH A CIVIC CENTER WASTEWATER TREATMENT FACILITY INSTITUTIONAL OVERLAY DISTRICT AT 24000 CIVIC CENTER WAY (ASSESSOR PARCEL NUMBERS 4458-028-005 AND -020) AND ASSOCIATED DEVELOPMENT STANDARDS, MODIFY PERMITTED AND CONDITIONALLY PERMITTED USES AND OTHER RELATED SECTIONS IN THE LOCAL COASTAL PROGRAM LOCAL IMPLEMENTATION PLAN, AND MAKE COROLLARY ZONING TEXT AND MAP AMENDMENTS TO TITLE 17 OF THE MALIBU MUNICIPAL CODE AND ZONING MAP

THE CITY COUNCIL OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On November 5, 2009, the Los Angeles Regional Water Quality Control Board (LARWQCB) approved Resolution No. R4-2009-007 to ban the discharges from onsite wastewater disposal systems (OWDSs), locally known and referred to in this ordinance as onsite wastewater treatment systems (OWTSs), in the Malibu Civic Center area. On September 21, 2010, the State Water Resources Control Board approved that same resolution, thereby amending the State Basin Plan. The Basin Plan Amendment went into effect on December 23, 2010. The Basin Plan Amendment included a map and timeline calling for commercial properties to cease discharge by 2015 and residential properties to cease discharge by 2019, among other things.

B. In August 2011, the City and the Water Boards entered into a Memorandum of Understanding (MOU) that detailed the implementation of the City's wastewater treatment plan for the Civic Center area, as defined in the Basin Plan Amendment. The MOU established the timelines for the construction of a centralized wastewater treatment facility and connection to that facility of properties in the Prohibition Area.

C. Malibu Local Coastal Program (LCP) Land Use Plan (LUP) Policy 7.20 states, "Any proposed sewer system shall be submitted to and approved by the Coastal Commission as an LCP amendment prior to issuance of local permits and construction." LCP Local Implementation Plan (LIP) Section 18.10(D) mirrors LUP Policy 7.20.

D. On May 31, 2013, the City filed an application for an LCP Amendment (LCPA) for the Civic Center Wastewater Treatment Facility project.

E. On June 24, 2013, the City Council adopted City Council Resolution No. 13-21 initiating changes to the LCP to create policies and standards for a Civic Center wastewater

Exhibit 2  
City of Malibu Ordinance No.  
386 Approving LIP Amendment  
LCP-4-MAL-15-0001-1

treatment system, and to update the Land Use and Zoning Maps to change the designation of two parcels that were expected to be the site for the treatment plant for the future Civic Center Wastewater Treatment Facility project (Assessor Parcel Numbers 4458-028-005 and -020, now addressed as 24000 Civic Center Way). The City Council directed the Planning Commission to schedule a public hearing regarding the amendment package. Due to the timelines set forth in the MOU, the legislative and entitlement portions of the project needed to proceed concurrently with the facility design as much as possible.

F. On November 21, 2013, an application for CDP No. 13-057 and associated entitlements was submitted by the City of Malibu Public Works Department to the Planning Department. The application was for the development of Phase 1 of the Civic Center Wastewater Treatment Facility, which included a wastewater treatment facility, pump stations, collection and distribution system pipelines, percolation ponds and groundwater injection wells, as well as a conditional use permit. The application was routed to the City Geologist, City Environmental Health Administrator, City Public Works Department, City Biologist and Los Angeles County Fire Department (LACFD) for conformance review. At this time, it was anticipated that the LCPA and corollary amendments to Title 17 of the Malibu Municipal Code (M.M.C.) would be processed concurrently and the LCPA certified by the California Coastal Commission (CCC) in advance of consideration of the CDP and other project entitlements by City Council.

G. Also on November 21, 2013, a Notice of Preparation (NOP) for an Environmental Impact Report (EIR) and Public Scoping Meeting was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area established by LARWQCB Resolution No. R4-2009-007, plus a 1,000 foot radius. The 30-day public review period was set to begin November 21, 2013 and end December 23, 2013. The NOP was also sent to the State Clearinghouse (SCH# 2013111075), who distributed the document to State reviewing agencies for a 30-day public review period from November 25, 2013 to December 24, 2013.

H. On December 11, 2013, the City held a public scoping meeting regarding the preparation of the EIR.

I. On December 12, 2013, the City extended the 30-day scoping comment period to January 7, 2014.

J. On January 23, 2014, a Notice of Planning Commission Public Hearing and Notice of Availability for LCP Amendment Documents was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; regional, state and federal agencies affected by the amendment; local libraries and media; and the CCC. The mailed notice area included property owners and occupants within the Prohibition Area, plus a 1,000 foot radius.

K. On January 28, 2014, a draft amendment package for LCPA No. 13-002,



Zoning Text Amendment (ZTA) No. 13-008, and Zoning Map Amendment (ZMA) No. 13-003 was presented to the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) for review and recommendation. The amendment package included a proposed Overlay District for the Winter Canyon Site (the proposed treatment plant site), as well as development standards and corollary amendments to the M.M.C. Title 17 (Zoning Ordinance) and Zoning Map and to ensure consistency with the LCP. Members of ZORACES and the public offered comments on the proposed amendments.

L. On February 7, 2014, the City issued a Notice of Cancellation of the February 18, 2014 Planning Commission meeting and all agenda items, including LCPA No. 13-002 and corollary M.M.C. amendments were continued to the Regular Planning Commission meeting on March 3, 2014.

M. On February 19, 2014, staff combined the proposed LCPA and M.M.C. amendments with the CDP and other entitlements as one application package for consideration by the Planning Commission and City Council. Consequently, on March 3, 2014, the Planning Commission continued the LCPA and corollary amendments to a date uncertain.

N. On May 29, 2014, a Notice of Availability for the Draft EIR was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area, plus a 1,000 foot radius.

O. On May 30, 2014, the City and the Governor's Office of Planning and Research distributed the Draft EIR to interested parties and responsible agencies (SCH #2013111075) for a 60-day public review period, May 30, 2014 through July 28, 2014.

P. In May 2014, story poles were installed on the proposed treatment plant site to depict the siting and bulk of covered and/or enclosed above-ground facilities associated with Phase 1. The story pole installation was certified by a licensed surveyor.

Q. On June 12, 2014, a Notice of Planning Commission Public Workshop and Notice of Availability of a Recirculated Draft EIR was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area, plus a 1,000 foot radius. The Recirculated Draft EIR was released for a 47-day public review period ending on July 28, 2014. The recirculated portions of the EIR corrected errors and/or omissions in the original Draft EIR pertaining to the number and location of pump stations expected to be needed at project buildout and facilities shown in project visual simulations, and to add information to the Geology and Soils and References sections of the document.

R. On June 18, 2014, a Notice of Coastal Development Permit application was posted at 24000 Civic Center Way (the proposed treatment plant site), the proposed Legacy Park pump station site and the proposed Bluffs Park pump station site.

S. On June 25, 2014, a Planning Commission Public Workshop on the Civic Center Wastewater Treatment Facility project was held. Following a presentation by the City's project design consultants, RMC Water and Environment, the Planning Commission and members of the public were given the opportunity to ask questions and receive answers about the project from the consultants and staff.

T. On June 26, 2014, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area, plus a 1,000 foot radius.

U. On July 21, 2014, the Planning Commission held a public hearing to receive public comments on the Draft EIR.

V. On July 23, 2014, the Environmental Review Board reviewed the Phase 1 CDP, Draft EIR and Recirculated Draft EIR and provided recommendations to the Planning Commission. All feasible recommendations have been incorporated into the final project.

W. From August 2014 through November 2014, the EIR consultant worked on responding to comments received during the 60-day public review period and prepared a Final EIR. The Final EIR responds to the comments received on the Draft EIR and proposes text revisions to the Draft EIR.

X. On November 20, 2014, the Final EIR was made available. Also on this date, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area, plus a 1,000 foot radius. Response to Comments on the Draft EIR was circulated to all of those who submitted comments as well as to interested parties.

Y. On December 4, 2014, the LARWQCB approved a revision to the MOU with the City (approved by City Council on November 24, 2014) that adjusted the timelines for various milestones based on the substantial progress made by the City to date and the complexity of the tasks involved with implementing the project. Under the modified MOU, the Phase 1 connection date is June 30, 2017 and the Phase 2 connection date is November 5, 2022.

Z. Ordinarily, the Planning Commission is the decision-making body for CDP projects and certification of California Environmental Quality Act (CEQA) documents. However, for amendments to the LCP and M.M.C., the Planning Commission acts exclusively as an advisory body, and the City Council is the decision-maker. Since the entitlements for the Civic Center Wastewater Treatment Facility Project depend upon the LCP and M.M.C. amendments, the Planning Commission acted in an advisory capacity on the amendments, the EIR and the entitlements, and the City Council is the decision-maker for all.

AA. On December 15, 2014, the Planning Commission held a duly noticed public hearing on LCPA No. 13-002, ZTA No. 13-008 and ZMA No. 13-003 reviewed and considered the Final EIR, agenda report, reviewed and considered written reports, public testimony, and other information in the record. The Planning Commission adopted Planning Commission Resolution Nos. 14-112 and 14-113 recommending that the City Council adopt LCPA No. 13-002, ZTA No. 13-008 and ZMA No. 13-003, and that the City Council certify the Final EIR, adopt the Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations.

BB. On December 18, 2014, Errata No. 1 to the Final EIR was made available.

CC. On December 18, 2014, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 1,000 foot radius of the subject property and to interested parties, regional, state and federal agencies

DD. On January 12, 2015, the City Council held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

## Section 2. Environmental Review.

In accordance Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the CCC before it takes effect. LIP Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance (Title 17 of the M.M.C.), if the LCP amendment is approved, the City must also approve the corollary amendments to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCP amendment and because it is entirely dependent on, related to, and duplicative of the exempt activity, it is subject to the same CEQA exemption. Without waiving the CEQA exemption referenced above, the City prepared an EIR for the project which analyzed the LCPA and ZTA together with the proposed Civic Center Wastewater Treatment Facility project.

## Section 3. Local Coastal Program Findings.

A. Based on evidence in the whole record, the City Council hereby finds that the proposed amendment meets the requirements of, and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act. Chapter 3 of the Coastal Act states that any new development must not impede or adversely impact public access to the beach, must protect marine resources and scenic views, and must not significantly disrupt environmentally sensitive habitat areas. Pursuant to LUP Policy 7.20 and LIP Section 18.10(D), any proposed sewer system shall be submitted to and approved by the CCC as

an LCPA prior to issuance of local permits and construction. The proposed LCPA creates development standards for the Civic Center Wastewater Treatment Facility that satisfy this requirement and ensure there will be no impacts on public access, marine resources, scenic views and environmentally sensitive habitat area as a result of these changes.

B. LUP Section 7.19 and LIP Section 18.10(C) state, "A City-wide public sewer system may be designed and proposed, in consultation with the Departments of Health Services and Public Works where it is found to be the least environmentally damaging wastewater treatment alternative, where it is designed to serve a capacity of development that which does not exceed the amount allowed by the LCP, and where it is found to be consistent with all other policies of the LCP. In particular, the proposed method of effluent disposal shall be required to be consistent with policies requiring the protection of marine resources, riparian habitat and water quality." The development standards included in the LCPA meet these requirements and ensure the effluent disposal method will be protective of marine resources, riparian habitat and water quality. Therefore, the LCPA meets the requirements of, and is in conformance with the goals, objectives and purposes of the LCP.

C. The proposed LCPA does not involve a change to the underlying zoning of the treatment plant site; the existing CV-2 zoning designation remains. The proposed Civic Center Wastewater Treatment Facility Institutional Overlay District applies only in the event the site is acquired by a public agency or special district and committed to that specific use. The proposed text amendment overall is consistent with the LCP and Chapter 3 of the Coastal Act.

#### Section 4. Local Coastal Program Amendment.

LCPA No. 13-002 includes amendments to the LCP Local Implementation Plan (LIP). Corollary amendments to the M.M.C. are identified in Section 6 of this ordinance. The City Council hereby amends the LIP as follows.

A. Add the following definition to LIP Section 2.1 (Definitions) to read as follows:

"CIVIC CENTER WASTEWATER TREATMENT FACILITY" (CCWTF) means a public utility facility to be constructed in the Malibu Civic Center area in response to the prohibition on discharges from onsite wastewater treatment systems adopted by the Los Angeles Regional Water Quality Control Board in Resolution No. R4-2009-007 and the State Water Quality Control Board in Resolution No. 2010-0045, in order to provide centralized municipal wastewater treatment facilities to affected properties.

B. Add LIP Section 3.4.4 to read as follows:

3.4.4 Civic Center Wastewater Treatment Facility (CCWTF) Institutional Overlay District (24000 Civic Center Way / APNs 4458-028-060 and 4458-028-020)

A. The provisions of this section shall only apply in the event the subject property is acquired by a public agency or special district and committed to use for the Civic Center Wastewater Treatment Facility.

B. The Institutional Property Development and Design Standards contained in LIP Section 3.9, as well as all other applicable LCP provisions, shall apply, unless specifically modified by this section.

C. Siting

1. Environmentally Sensitive Habitat Area. The CCWTF is a necessary water supply project with incidental public service components (per LIP Section 18.10(B)). The project shall comply with applicable provisions of LIP Chapter 4, such as but not limited to siting the project to avoid impacts to ESHA and to provide the minimum required ESHA buffers, except as otherwise provided below:

a. CCWTF treatment plant site. LIP Section 4.6.4(A) (Variances) shall not apply and a reduced ESHA buffer may be allowed if all of the following requirements are met:

i. The treatment plant facilities are sited within the previously approved and disturbed development area as much as feasible.

ii. The required driveway is located along the existing unpaved driveway as much as possible.

iii. Any required fuel modification that encroaches into ESHA buffer is limited to thinning only.

iv. Any onsite pipelines and equipment that must be located within 100 feet of ESHA shall be installed under pavement or within previously disturbed areas as much as feasible.

v. The square footage of reduced ESHA buffer area is offset with ESHA enhancement elsewhere on the site on a one to one basis. The ESHA enhancement shall be incorporated into the site landscape plan reviewed and approved by the City Biologist.

b. Offsite pipelines and ancillary infrastructure,

i. Pipelines and ancillary infrastructure associated with the project, such as but not limited to pump stations, generators, and wells not located on the treatment plant site, shall be located underground whenever feasible and/or in disturbed areas, especially under existing paving, as much as possible to avoid ESHA, native trees, trails, public recreational use areas (such as within parks), and visual impacts.

- ii. Any temporary impacts to ESHA from excavation, trenching, or other construction disturbance shall be fully restored. Permanent impacts to or loss of ESHA shall be offset by payment of an in lieu fee in accordance with LIP Section 4.8.1(C). The applicant shall provide a preliminary calculation of any impact areas for review and approval by the City Biologist as part of the CDP application and a final calculation prior to issuance of a grading permit for the development affecting the ESHA resources.

2. Native Trees. The project shall be designed to avoid impacts to protected native trees as defined in LIP Chapter 5; however, where impacts to protected native trees cannot be feasibly be avoided, impacts shall be minimized. Such impacts shall only be allowed if, as a condition of approval of a coastal development permit for the development, the applicant shall be required to: 1) implement a tree protection plan prepared in accordance with LIP Section 5.3 and approved by the City Biologist for trees that will not be removed; and 2) pay the in lieu fee required by LIP Section 5.5.2(b) for trees that are removed, prior to the issuance of a grading permit for the development affecting the protected trees.

D. Yards/Setbacks. LIP Section 3.9(A)(2) shall apply except that the front yard setback shall be 5 feet.

E. Height. LIP Section 3.9(A) shall apply except that structure height up to 28 feet shall be allowed without the requirement of a site plan review under LIP Section 13.27.1(A)(8).

F. Fencing and Walls. LIP Section 3.5.3(A) shall apply except that the portion of fence above 42 inches within any required yard need not be visually permeable where it serves as screening for structures or equipment. Vegetative screening within or outside of required yards shall not be limited in height except where such screening would block the primary view of any affected residence as described in Malibu Municipal Code Section 17.40.040(A)(17), or would significantly impede public views of scenic areas. Additionally, single retaining walls within required yards may extend to a height of up to 7 feet, so long as such walls incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape when they are visible from surrounding public and private properties and rights of way.

G. Parking and Loading. LIP Sections 3.14.5 and 3.14.6 shall not apply.

H. Grading. LIP Chapter 8 shall apply except that a single retaining wall up to a height of 12 feet shall be allowed and all grading associated with access

driveways shall be included in the exception from grading limitations of LIP Section 8.3(I).

I. Visual Impacts / Screening. Structures and equipment shall be designed to minimize visual impacts using methods including, but not limited to: locating development below ground level where possible; utilizing landscape screening to soften views of the development and allow it to blend with the surrounding environment; and incorporating design measures like walls, fencing, and building and lighting orientations that help to contain operational sounds and odors, screen site development from nearby properties and public viewing areas, and avoid offsite light spill.

C. Amend LIP Sections 13.6.4(H) through (J) to read as follows:

H. For development relying on an Onsite Wastewater Treatment System, a Septic Plot Plan, prepared by an Environmental Health Specialist that shall include a percolation testing report and septic system design of adequate size, capacity and design to serve the proposed development for the life of the project. Development that will be connected to the Civic Center Wastewater Treatment Facility shall obtain approval from the City Public Works Department for the connection.

I. For applications for land divisions:

1. A report prepared by a registered groundwater hydrologist and Environmental Health Specialist that addresses the ability of each proposed building site to accommodate a sewage disposal system, including an analysis of depth to groundwater that addresses seasonal and cyclical variations as well as the adequacy of percolation rates in post-grading conditions (cut or compacted fill); properties that will be connected to the Civic Center Wastewater Treatment Facility shall obtain approval from the City Public Works Department for the connection;

J. For applications for water wells, a groundwater hydrological study that analyzes the individual and cumulative impacts the well may have on groundwater supplies and the potential individual and cumulative impacts the well may have on adjacent or nearby streams, springs, or seeps and their associated riparian habitat. Additionally, new proposed water wells located within the Malibu Valley Groundwater Basin must comply with groundwater management requirements of the California Department of Public Health.

D. Amend LIP Section 15.2(B)(8) to read as follows:

8. Does not create any parcels without the appropriate conditions for a properly functioning onsite wastewater treatment system or connection to the

Civic Center Wastewater Treatment Facility (if applicable), or without an adequate water supply for domestic use. All required approvals certifying that these requirements are met must be obtained;

- E. Add the following definition to LIP Section 18.3 to read as follows:

“MALIBU VALLEY GROUNDWATER BASIN” means a small alluvial basin located along the Los Angeles County coastline within the City of Malibu. The basin is bounded by the Pacific Ocean on the south and the non water-bearing Tertiary rocks on all remaining sides. The valley is drained by Malibu Creek to the Pacific Ocean. Average annual rain precipitation ranges from 14 to 16 inches. The groundwater is found principally in Holocene alluvium which consists of clays, silts, sands and gravels. Thickness of the alluvium ranges from 90 feet at the upper end to more than 140 feet at the lower end. Recharge of the basin is from percolation of precipitation, runoff, and effluent from Onsite Wastewater Treatment Systems.

- F. Amend title of LIP Section 18.4 to read as follows:

18.4. OWTS PERMIT APPLICATION AND OTHER GENERAL REQUIREMENTS

- G. Move LIP Section 18.6 (Management Program) to Section 18.9, renumber subsequent sections, and update all existing references throughout the LIP for all affected sections.

- H. Amend title of renumbered LIP Section 18.6 to read as follows:

18.6. OWTS SITING, DESIGN AND PERFORMANCE REQUIREMENTS

- I. Amend title of renumbered LIP Section 18.8 to read as follows:

18.8. OWTS MAINTENANCE, OPERATION AND MONITORING

- J. Amend title of LIP Section 18.9 to read as follows:

18.9. OWTS MANAGEMENT PROGRAM

- K. Renumber LIP Section 18.10 (Water Systems/Wastewater Management) to LIP Section 18.11.

- L. Add LIP Section 18.10 to read as follows:

CIVIC CENTER WASTEWATER TREATMENT FACILITY



A. CDP Required. A CDP shall be required for construction of each phase of the Civic Center Wastewater Treatment Facility (CCWTF), including associated infrastructure. Where system maintenance, minor modifications or ancillary equipment fall within the exceptions allowed pursuant to LIP Section 13.4, the requirement for a CDP for such development shall not apply.

B. The Regional Water Quality Control Board requires the CCWTF to maximize the use of reclaimed water produced by the facility and, where possible, to substitute the reclaimed water for potable water uses. As such, for purposes of LIP Chapter 4 (ESHA) and LIP Chapter 17 (Water Quality), the CCWTF shall be considered a necessary water supply project that includes incidental public service purposes, including but not limited to, burying cables and pipes or inspection and maintenance.

C. Supplementary Application Requirements. In addition to any other application materials required by this LCP, the application for a CDP for the CCWTF and any future phase shall include the following:

1. An engineering report that includes a project description and the basis of design for collection system flows, anticipated treatment system performance requirements, construction requirements, effluent disposal methods, water reclamation capacity and a facility site plan.
2. Documentation that the project complies, or will comply, with the requirements contained in this chapter and anticipated Wastewater Discharge Requirements and/or Water Recycling Requirements to be issued by the Regional Board (with input from the California Department of Public Health for water reclamation).

D. Findings. A CDP for the CCWTF or modifications to the facility shall only be approved if the City makes all applicable findings required in the LCP and the following:

1. The proposed project is designed to serve a capacity of development that does not exceed the amount allowed by the LCP.
2. The proposed project is consistent with regulatory requirements of the City of Malibu and applicable agencies, including but not limited to, the Regional Water Quality Control Board.
3. The project, including any proposed new or modified method of effluent disposal, is consistent with policies requiring protection of marine resources, riparian habitat and water quality.

E. System Design and Performance Requirements.

1. The build out design capacity of the CCWTF, including all phases, shall not exceed the amount of development allowed by the LCP.
2. The project shall comply with the requirements contained in this chapter, current Guidelines of the Regional Board or such other requirements of the City of Malibu, whichever are more stringent.
3. The CCWTF treatment plant and all associated infrastructure shall be sited and designed in conformance with LIP Section 3.4.4 and all applicable LCP policies and standards.
4. Pipeline crossings of streams and/or encroachment into riparian/wetland areas shall be kept to a minimum; where necessary, such crossings or encroachments shall be sited in disturbed areas or underground to the extent feasible, and shall be designed to be the least environmentally damaging alternative, given consideration of both construction and operation/maintenance.
5. Effluent disposal methods shall be the least environmentally damaging feasible alternatives, and shall maximize reuse of recycled wastewater as much as feasible in accordance with LCP policies.
6. The facility shall incorporate industry-standard fail safes, redundancies, and other such secondary protection measures as necessary to minimize the potential for environmental damage.
7. Implementation of the project following CDP approval shall include an OWTS decommissioning and wastewater connection program designed in accordance with Regional Board and Uniform Plumbing Code requirements and which sets forth procedures and requirements for the disposition of existing OWTS and connection to the CCWTF.

M. Add LIP Section 18.11(F) to read as follows:

F. Once the CCWTF begins operating, new or modified water wells within the Malibu Valley Groundwater Basin shall be allowed only in accordance with the groundwater protection zone requirements established by the California Department of Public Health.

N. Amend LIP Table B (Permitted Uses) to make the following modifications within the "CV-2" and "OS" zone columns as indicated, together with modified and additional footnotes. All other portions of Table B shall remain unaffected.

PUBLIC, QUASI-PUBLIC, OR NON-PROFIT USES																
Public utility facilities	CUP	CUP	CUP	CUP	.	.	.	CUP	CUP	CUP <sup>4</sup>	CUP <sup>4</sup>	CUP	CUP <sup>15</sup>	CUP	.	.

PUBLIC, QUASI-PUBLIC, OR NON-PROFIT USES																
Wastewater storage and hauling	.	.	.	.	.	.	.	.	.	.	.	CUP <sup>16</sup>	CUP	.	.	.

Notes

1. Subject to Residential Development Standards (Section 3.6).
2. Subject to Home Occupations Standards [(Section 3.6(O)].
3. Use Prohibited in Environmentally Sensitive Habitat Areas.
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals.
6. Maximum interior occupancy of 125 persons.
7. If exceeding interior occupancy of 125 persons.
8. By hand only.
9. Use permitted only if available to general public.
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Section 4.6.2 and 6.5(G).
12. Limited to public agency use only (not for private use).
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only.
14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.
15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including but not limited to injection wells, generators, and pump stations.
16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with

an existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.

O. Insert a new map titled "Civic Center Wastewater Treatment Facility Institutional Overlay District Map" into the LIP Zoning Map.

Section 5. Zoning Text Amendment Findings.

Pursuant to M.M.C. Section 17.74.040, the City Council finds, based on evidence in the whole record, that the subject Zoning Text and Map Amendments are consistent with the General Plan. The proposed amendment does not involve a zone change; the existing General Plan land use designation remains CV-2. The proposed Civic Center Wastewater Treatment Facility Institutional Overlay District applies only in the event the site is acquired by a public agency or special district and committed to that specific use. The proposed text amendment overall is consistent with the General Plan.

Section 6. Malibu Municipal Code Amendments.

ZTA No. 13-008 and ZMA No. 13-003 include amendments to Title 17 (Zoning) of the M.M.C. Pursuant to M.M.C. Section 17.74.040, the City Council hereby amends Title 17 (Zoning) of the M.M.C. as follows:

A. Add the following definition to M.M.C. Section 17.02.060 (Definitions) to read as follows:

"Civic Center Wastewater Treatment Facility" (CCWTF) means a public utility facility to be constructed in the Malibu Civic Center area in response to the prohibition on discharges from onsite wastewater treatment systems adopted by the Los Angeles Regional Water Quality Control Board in Resolution No. R4-2009-007 and the State Water Quality Control Board in Resolution No. 2010-0045, in order to provide centralized municipal wastewater treatment facilities to affected properties.

B. Add M.M.C. Section 17.28.030(C) to read as follows:

C. Wastewater storage and hauling only within the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with an existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.

C. Add M.M.C. Section 17.32.030(C) to read as follows:

C. Public utility facilities provided that facilities are ancillary to the Civic Center Wastewater Treatment Facility, including but not limited to injection wells, generators, and pump stations.

D. Amend M.M.C. Section 17.40.040(A)(14) to read as follows:

14. Wastewater Disposal. Except for development that will be connected to the Civic Center Wastewater Treatment Facility, all wastewater shall be disposed of on the site where it is created, unless a property is already developed with a habitable structure and a conditional use permit is obtained for off-site treatment or disposal. A conditional use permit, subject to the provisions of Chapter 17.66, may be granted to the site receiving the wastewater only after consideration of the following factors:

E. Amend M.M.C. Section 17.40.080(A)(7) to read as follows:

7. Wastewater Disposal. Except for development that will be connected to the Civic Center Wastewater Treatment Facility, all wastewater shall be disposed of on the site where it is created, unless a property is already developed with a habitable structure and a conditional use permit is obtained for off-site treatment or disposal. A conditional use permit, subject to the provisions of Chapter 17.66, may be granted to the site receiving the wastewater only after consideration of the following factors:

F. Add M.M.C. Section 17.42.020(K) to read as follows:

K. Civic Center Wastewater Treatment Facility (CCWTF) Institutional Overlay District (24000 Civic Center Way / APNs 4458-028-006 and 4458-028-020).

1. The provisions of this section shall only apply in the event the subject property is acquired by a public agency or special district and committed to use for the Civic Center Wastewater Treatment Facility.
2. The Institutional Property Development and Design Standards contained in Section 17.40.110, as well as all other applicable provisions of this title, shall apply, unless specifically modified by this section.
3. Siting
  - a. Environmentally Sensitive Habitat Area. The CCWTF is a necessary water supply project with incidental public service components (per LIP Section 18.10(B)). The project shall comply with applicable provisions of LIP Chapter 4, such as but not limited to siting the project to avoid impacts to ESHA and to provide the minimum required ESHA buffers, except as otherwise provided below:
    - i. CCWTF treatment plant site. LIP Section 4.6.4(A) (Variances) shall not apply and a reduced ESHA buffer may be allowed if all of the following requirements are met:

- 
- a) The treatment plant facilities are sited within the previously approved and disturbed development area as much as feasible.
  - b) The required driveway is located along the existing unpaved driveway as much as possible.
  - c) Any required fuel modification that encroaches into ESHA buffer is limited to thinning only.
  - d) Any onsite pipelines and equipment that must be located within 100 feet of ESHA shall be installed under pavement or within previously disturbed areas as much as feasible.
  - e) The square footage of reduced ESHA buffer area is offset with ESHA enhancement elsewhere on the site on a one to one basis. The ESHA enhancement shall be incorporated into the site landscape plan reviewed and approved by the City Biologist.
- ii. Offsite pipelines and ancillary infrastructure,
- a) Pipelines and ancillary infrastructure associated with the project, such as but not limited to pump stations, generators, and wells not located on the treatment plant site, shall be located underground whenever feasible and/or in disturbed areas, especially under existing paving, as much as possible to avoid ESHA, native trees, trails, public recreational use areas (such as within parks), and visual impacts.
  - b) Any temporary impacts to ESHA from excavation, trenching, or other construction disturbance shall be fully restored. Permanent impacts to or loss of ESHA shall be offset by payment of an in lieu fee in accordance with LIP Section 4.8.1(C). The applicant shall provide a preliminary calculation of any impact areas for review and approval by the City Biologist as part of the CDP application and a final calculation prior to issuance of a grading permit for the development affecting the ESHA resources.
- b. Native Trees. The project shall be designed to avoid impacts to protected native trees as defined in LIP Chapter 5; however, where impacts to protected native trees cannot be feasibly be avoided, impacts shall be minimized. Such impacts shall only be allowed if, as a condition of approval of a coastal development permit for the development, the applicant shall be required to: 1) implement a tree protection plan prepared in accordance with LIP Section 5.3 and approved by the City Biologist for trees that will not be removed; and 2) pay the in lieu fee required by LIP Section 5.5.2(b) for trees that are removed, prior to the issuance of a grading permit for the development affecting the protected trees.

4. Height. Section 17.40.110(A)(1) shall apply except that structure height up to 28 feet shall be allowed without the requirement of a site plan review under Section 17.62.040(A).
  5. Yards/Setbacks. Section 17.40.110(A)(2) shall apply except that the front yard setback shall be 5 feet.
  6. Fencing and Walls. Section 17.40.030(A) shall apply except that the portion of fence above 42 inches within any required yard need not be visually permeable where it serves as screening for structures or equipment. Vegetative screening within or outside of required yards shall not be limited in height except where such screening would block the primary view of any affected residence as described in Section 17.40.040(A)(17), or would significantly impede public views of scenic areas. Additionally, single retaining walls within required yards may extend to a height of up to 7 feet, so long as such walls incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape when they are visible from surrounding public and private properties and rights of way.
  7. Parking and Loading. Sections 17.48.050 and 17.48.060 shall not apply.
  8. Grading. Section 17.40.110(A)(4) shall apply except that a single retaining wall up to a height of 12 feet shall be allowed so long as such walls incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape when they are visible from surrounding public and private properties and rights of way and all grading associated with access driveways shall be included in the exception from grading limitations of Section 17.40.110(A)(4)(f).
  9. Aesthetics / Screening. Structures and equipment shall be sited and designed to minimize visual impacts using methods including, but not limited to: locating development below ground level where possible; utilizing landscape screening to soften views of the development and allow it to blend with the surrounding environment; and incorporating design measures like walls, fencing, and building and lighting orientations that help to contain operational sounds and odors, screen site development from nearby properties and public viewing areas, and avoid offsite light spill.
- G. Amend M.M.C. Section 17.06.020 Zoning Map to add a new map titled "Civic Center Wastewater Treatment Facility Institutional Overlay District Map," included as Exhibit A to this ordinance.

Section 7. Approval.

Subject to the contingency set forth in Section 10, the City Council hereby adopts LCPA No. 13-002 and ZTA No. 13-008 amending the LCP and M.M.C.

Section 8. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 13-002 to the CCC for certification, in conformance with the submittal requirements specified in California Code of Regulation, Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations Section 13551, et. seq.

Section 9. Severability.

If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of this Ordinance would be subsequently declared invalid or unconstitutional.

Section 10. Effectiveness.

The amendments approved in this ordinance shall become effective only upon certification by the CCC of this amendment to the LCP.

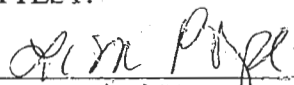
Section 11. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this 26<sup>th</sup> day of January 2015.

  
\_\_\_\_\_  
JOHN SIBERT, Mayor

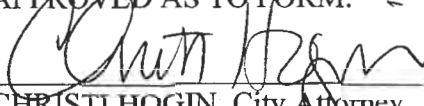
ATTEST:

  
\_\_\_\_\_  
LISA POPE, City Clerk

(seal)



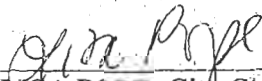
APPROVED AS TO FORM: -

  
CHRISTI HOGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure.

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 386 was passed and adopted at the regular City Council meeting of January 26, 2015, by the following vote:

AYES:	5	Councilmembers:	Peak, House, La Monte, Rosenthal, Sibert
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		

  
LISA POPE, City Clerk  
(seal)

Received

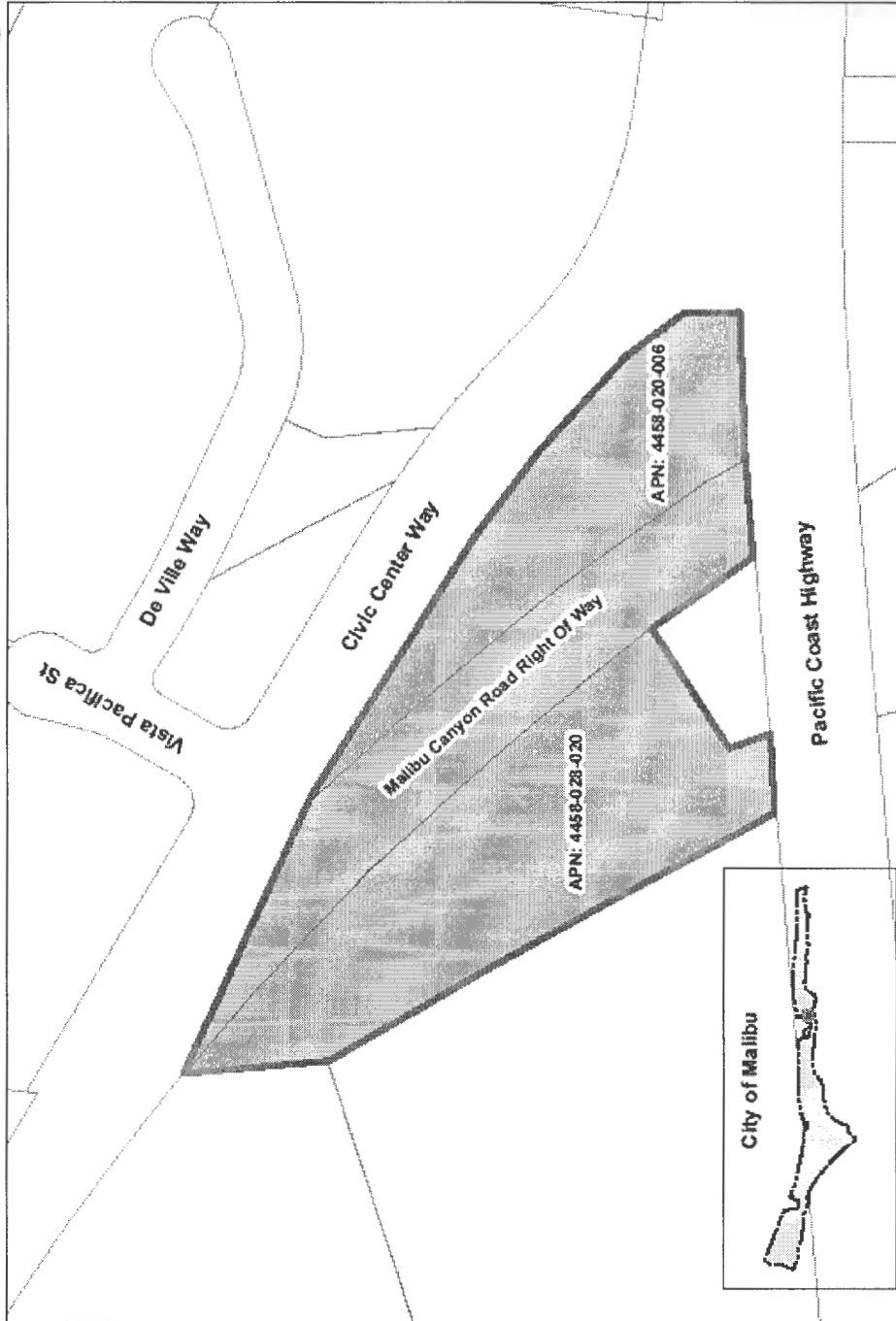
JAN 21 2015

CITY OF MALIBU  
SOUTH CENTRAL COAST DISTRICT

EXHIBIT A



CCWTF Institutional Overlay District Map



Note: This map was prepared by the City of Malibu Planning Department on January 14, 2014.

RESOLUTION NO. 15-05

Received  
JAN 27 2015

California Coastal Commission  
South Central Coast District

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU ADOPTING THE FINDINGS OF FACT REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CERTIFYING ENVIRONMENTAL IMPACT REPORT NO. 13-001 AND ERRATA NO. 1, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM AND STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 13-057 AND CONDITIONAL USE PERMIT NO. 13-005 FOR PHASE ONE OF THE CIVIC CENTER WASTEWATER TREATMENT FACILITY PROJECT, CONSISTING OF CONSTRUCTION OF A NEW WASTEWATER COLLECTION SYSTEM, A CENTRALIZED WASTEWATER TREATMENT FACILITY TO TREAT WASTEWATER FLOWS FROM PHASE ONE PROHIBITION AREA PROPERTIES, A NEW RECYCLED WATER PIPELINE SYSTEM TO PROVIDE NONPOTABLE RECYCLED WATER FOR REUSE, AND ANCILLARY FACILITIES, LOCATED AT 24000 CIVIC CENTER WAY IN THE COMMERCIAL VISITOR SERVING-2 ZONING DISTRICT, LEGACY PARK IN THE COMMERCIAL VISITOR SERVING-1 ZONING DISTRICT, MALIBU BLUFFS PARK IN THE PUBLIC OPEN SPACE ZONING DISTRICT, AND IN PUBLIC AND PRIVATE STREETS AND EASEMENTS IN THE CIVIC CENTER AREA (MALIBU BAY COMPANY AND CITY OF MALIBU)

THE CITY COUNCIL OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On November 5, 2009, the Los Angeles Regional Water Quality Control Board (LARWQCB) approved Resolution No. R4-2009-007 to ban the discharges from onsite wastewater disposal systems (OWDSs), locally known and referred to in this resolution as onsite wastewater treatment systems (OWTSs), in the Malibu Civic Center area. On September 21, 2010, the State Water Resources Control Board approved that same resolution, thereby amending the State Basin Plan. The Basin Plan Amendment went into effect on December 23, 2010. The Basin Plan Amendment included a map and timeline calling for commercial properties to cease discharge by 2015 and residential properties to cease discharge by 2019, among other things.

B. In August 2011, the City and the Water Boards entered into a Memorandum of Understanding (MOU) that detailed the implementation of the City's wastewater treatment plan for the Civic Center area, as defined in the Basin Plan Amendment. The MOU established the timelines for the construction of a centralized wastewater treatment facility and connection to that facility of properties in the Prohibition Area.

C. Malibu Local Coastal Program (LCP) Land Use Plan (LUP) Policy 7.20 states, "Any proposed sewer system shall be submitted to and approved by the Coastal Commission as an LCP amendment prior to issuance of local permits and construction." LCP Local Implementation Plan (LIP) Section 18.10(D) mirrors LUP Policy 7.20.

Exhibit 3  
City of Malibu Resolution No. 15-05 Approving CDP No. 13-057  
LCP-4-MAL-15-0001-1

D. On May 31, 2013, the City filed an application for an LCPA for the Civic Center Wastewater Treatment Facility project.

E. On June 24, 2013, the City Council adopted City Council Resolution No. 13-21 initiating changes to the LCP to create policies and standards for a Civic Center wastewater treatment system, and to update the Land Use and Zoning Maps to change the designation of two parcels that were expected to be the site for the treatment plant for the future Civic Center Wastewater Treatment Facility project (Assessor Parcel Numbers 4458-028-005 and -020, now addressed as 24000 Civic Center Way). The City Council directed the Planning Commission to schedule a public hearing regarding the amendment package. Due to the timelines set forth in the MOU, the legislative and entitlement portions of the project needed to proceed concurrently with the facility design as much as possible.

F. On November 21, 2013, an application for CDP No. 13-057 and associated entitlements was submitted by the City of Malibu Public Works Department to the Planning Department. The application was for the development of Phase 1 of the Civic Center Wastewater Treatment Facility, which included a wastewater treatment facility, pump stations, collection and distribution system pipelines, percolation ponds and groundwater injection wells, as well as a conditional use permit. The application was routed to the City Geologist, City Environmental Health Administrator, City Public Works Department, City Biologist, and Los Angeles County Fire Department (LACFD) for conformance review. At this time, it was anticipated that the LCPA and corollary amendments to Title 17 of the Malibu Municipal Code (M.M.C.) would be processed concurrently and the LCPA certified by the California Coastal Commission (CCC) in advance of consideration of the CDP and other project entitlements by City Council.

G. Also on November 21, 2013, a Notice of Preparation (NOP) for an Environmental Impact Report (EIR) and Public Scoping Meeting was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area established by LARWQCB Resolution No. R4-2009-007, plus a 1,000 foot radius. The 30-day public review period was set to begin November 21, 2013 and end December 23, 2013. The NOP was also sent to the State Clearinghouse (SCH# 2013111075), who distributed the document to State reviewing agencies for a 30-day public review period from November 25, 2013 to December 24, 2013.

H. On December 11, 2013, the City held a public scoping meeting regarding the preparation of the EIR.

I. On December 12, 2013, the City extended the 30-day scoping comment period to January 7, 2014.

J. On January 23, 2014, a Notice of Planning Commission Public Hearing and Notice of Availability for LCP Amendment Documents was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; regional, state and federal agencies affected by the amendment; local libraries and media; and the CCC. The mailed notice area included property owners and occupants within the Prohibition Area, plus a 1,000 foot radius.

K. On January 28, 2014, a draft amendment package for LCPA No. 13-002, Zoning Text Amendment (ZTA) No. 13-008, and Zoning Map Amendment (ZMA) No. 13-003 was presented to the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) for review and recommendation. The amendment package included a proposed overlay district for the Winter Canyon Site (the proposed treatment plant site), as well as development standards and corollary amendments to the M.M.C. Title 17 (Zoning Ordinance) and Zoning Map to ensure consistency with the LCP. Members of ZORACES and the public offered comments on the proposed amendments.

L. On February 7, 2014, the City issued a Notice of Cancellation of the February 18, 2014 Planning Commission meeting and all agenda items, including LCPA No. 13-002 and corollary M.M.C. amendments were continued to the Regular Planning Commission meeting on March 3, 2014.

M. On February 19, 2014, staff combined the proposed LCPA and M.M.C. amendments with the CDP and other entitlements as one application package for consideration by the Planning Commission and City Council. Consequently, on March 3, 2014, the Planning Commission continued the LCPA and corollary amendments to a date uncertain.

N. On May 29, 2014, a Notice of Availability for the Draft EIR was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area, plus a 1,000 foot radius.

O. On May 30, 2014, the City and the Governor's Office of Planning and Research distributed the Draft EIR to interested parties and responsible agencies (SCH #2013111075) for a 60-day public review period, May 30, 2014 through July 28, 2014.

P. In May 2014, story poles were installed on the proposed treatment plant site to depict the siting and bulk of covered and/or enclosed above-ground facilities associated with Phase 1. The story pole installation was certified by a licensed surveyor.

Q. On June 12, 2014, a Notice of Planning Commission Public Workshop and Notice of Availability of a Recirculated Draft EIR was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area, plus a 1,000 foot radius. The Recirculated Draft EIR was released for a 47-day public review period ending on July 28, 2014. The recirculated portions of the EIR corrected errors and/or omissions in the original Draft EIR pertaining to the number and location of pump stations expected to be needed at project buildout and facilities shown in project visual simulations, and to add information to the Geology and Soils and References sections of the document.

R. On June 18, 2014, a Notice of Coastal Development Permit application was posted at 24000 Civic Center Way (the proposed treatment plant site), the proposed Legacy Park pump station site and the proposed Bluffs Park pump station site.

S. On June 25, 2014, a Planning Commission Public Workshop on the Civic Center Wastewater Treatment Facility project was held. Following a presentation by the City's project design consultants, RMC Water and Environment, the Planning Commission and members of the public were given the

opportunity to ask questions and receive answers about the project from the consultants and staff.

T. On June 26, 2014, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area, plus a 1,000 foot radius.

U. On July 21, 2014, the Planning Commission held a public hearing to receive public comments on the Draft EIR.

V. On July 23, 2014, the Environmental Review Board reviewed the Phase 1 CDP, Draft EIR and Recirculated Draft EIR and provided recommendations to the Planning Commission. All feasible recommendations have been incorporated into the final project.

W. From August 2014 through November 2014, the EIR consultant worked on responding to comments received during the 60-day public review period and prepared a Final EIR. The Final EIR responds to the comments received on the Draft EIR and proposes text revisions to the Draft EIR.

X. On September 1, 2014, the CDP application was deemed complete.

Y. On November 20, 2014, the Final EIR was made available. Also on this date, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area, plus a 1,000 foot radius. Response to Comments on the Draft EIR was circulated to all of those who submitted comments as well as to interested parties.

Z. On December 4, 2014, the LARWQCB approved a revision to the MOU with the City (approved by City Council on November 24, 2014) that adjusted the timelines for various milestones based on the substantial progress made by the City to date and the complexity of the tasks involved with implementing the project. Under the modified MOU, the Phase 1 connection date is June 30, 2017 and the Phase 2 connection date is November 5, 2022.

AA. Ordinarily, the Planning Commission is the decision-making body for CDP projects and certification of California Environmental Quality Act (CEQA) documents. However, for amendments to the LCP and M.M.C., the Planning Commission acts exclusively as an advisory body, and the City Council is the decision-maker. Since the entitlements for the Civic Center Wastewater Treatment Facility project depend upon the LCP and M.M.C. amendments, the Planning Commission acted in an advisory capacity on the amendments, the EIR and the entitlements, and the City Council is the decision-maker for all.

BB. On December 15, 2014, the Planning Commission held a duly noticed public hearing on LCPA No. 13-002, ZTA No. 13-008 and ZMA No. 13-003 reviewed and considered the Final EIR, agenda report, reviewed and considered written reports, public testimony, and other information in the record. The Planning Commission adopted Planning Commission Resolution Nos. 14-112 and 14-113 recommending that the City Council adopt LCPA No. 13-002, ZTA No. 13-008 and ZMA No. 13-003, and that the City Council certify the Final EIR, adopt the Mitigation Monitoring and Reporting

Program, and Statement of Overriding Considerations.

CC. On December 18, 2014, errata to the Final EIR were made available.

DD. On December 18, 2014, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 1,000 foot radius of the subject property and to interested parties, regional, state and federal agencies

EE. On January 12, 2015, the City Council held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

Section 2. Adoption of CEQA Findings.

The City Council finds as follows:

A. CEQA requires decision-makers to balance the benefits of a proposed project against its unavoidable environmental impacts. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable" by adopting a Statement of Overriding Considerations. This statement sets forth the project benefits or reasons why the Lead Agency, City of Malibu, is in favor of approving and weighs these benefits against the project's environmental impacts identified in the Final EIR that cannot be mitigated to a level less than significant.

B. CEQA requires decision makers to adopt a mitigation monitoring and/or reporting program (MMRP) for those mitigation measures identified in the Final EIR that would mitigate or avoid each significant effect identified in the EIR, and to incorporate the MMRP including all mitigation measures as conditions of project approval. The Final EIR includes an analysis of the extent to which the proposed project's direct and indirect impacts will commit nonrenewable resources to uses that future generations will probably be unable to reverse.

C. CEQA requires that the responses to comments in the Final EIR demonstrate good faith and a well-reasoned analysis and may not be conclusory. In response to several comments received, portions of the Draft EIR have been revised. Although new material has been added to the Draft EIR through preparation of the Final EIR, this new material provides clarification to points and information already included in the Draft EIR and is not considered to be significant new information or a substantial change to the Draft EIR that would necessitate recirculation.

D. The CEQA Guidelines note that "[t]he EIR is to inform other governmental agencies and the public generally of the environmental impact of a proposed project" and "CEQA does not require technical perfection in an EIR, but rather adequacy, completeness and a good-faith effort at full disclosure." (14 Cal. Code of Regs. § 15003(c) and (i).)

E. Comments received on the Draft EIR during the public review period show that there may

be disagreements among experts. The Final EIR includes an additional clarifying narrative and clarifying appendices for the purposes of fully disclosing the information sources and reasoning by which levels of impact and mitigation measures were established in the Draft EIR. Further, the clarifying narrative and appendices in the Final EIR serve the purpose of fully disclosing the information sources and reasoning used by various public and agency DEIR commenters who arrived at divergent conclusions. CEQA provides that disagreement among experts regarding conclusions in the EIR is acceptable, and perfection is not required.

F. The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the City Clerk of the City of Malibu and shall be located at City Hall.

Section 3. Adoption of Findings Addressing the Issues Analyzed in the Final EIR.

The City Council hereby finds that the Final EIR for the Civic Center Wastewater Treatment Facility project and associated entitlements identifies and discloses project-specific impacts and cumulative project impacts. Environmental impacts identified in the Final EIR, findings, and facts in support of findings are herein incorporated as Findings Required by CEQA, and are as follows:

A. Project-Level Impacts Determined to be Significant and Mitigable

The Final EIR identifies project-level impacts determined to be significant and mitigable to a less than significant level. They include:

1. AESTHETICS

Significant Impact: None of the proposed project elements would have a significant effect on noteworthy scenic resources, including scenic highways Pacific Coast Highway (PCH) and Malibu Canyon Road because of intervening landforms separating the site from the road. However, the proposed project would require removal of protected California walnut trees, which may be considered a scenic resource; however, new onsite native landscape screening included in the project will offset this visual impact.

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 FEIR.

Facts in Support of Finding: As the proposed project would not result in significant impacts to aesthetics, no mitigation measures are necessary.

2. BIOLOGICAL RESOURCES

Significant Impact:



### *Special-Status Species*

No special-status listed plant species are known or expected to occur on the project site; however, if construction intrudes into habitat at Malibu Lagoon and Malibu Creek, disturbance or damage to special-status plant species habitat can result. Removal of vegetation when there are nesting birds present could result in a violation of the Migratory Bird Treaty Act and/or Fish and Game Code. Malibu Lagoon and Malibu Creek are also designated critical habitat for tidewater goby and southern steelhead. If during auguring operations underneath Malibu Creek fine particles associated with the boring fluid migrate to the surface, it would have the potential to smother fish and their eggs. However, anticipated improved water quality conditions in Malibu Lagoon resulting from the project would be expected to benefit southern steelhead and tidewater goby. Bat roosts may occur on the PCH bridge crossing over Malibu Lagoon, where a pipeline crossing would be placed during Phase 2 of the project. If construction on or below the bridge deck caused enough disturbances through noise, vibration, and/or motion for a maternity bat roost to be abandoned, it would be considered a potentially significant impact. In addition, bat roosts may occur on the Cross Creek bridge crossing over Malibu Creek, immediately adjacent to where work area for auguring under Malibu Creek may occur. If construction of the entry/exit bores or the auguring caused enough disturbances through noise, vibration, and/or motion for a maternity bat roost to be abandoned, it would be considered potentially significant. Treated wastewater injection would alter groundwater outflow conditions which is of potential concern because it could change habitat conditions supporting benthic settling and development of the larval life stages of sensitive species. This is particularly true given the potential presence of highly imperiled abalone species, and the importance of successful larval recruitment to the conservation of these species. However, a conservative analysis of potential marine water quality effects indicates that ocean water quality would not be substantially affected by the project.

### *Riparian Vegetation and Sensitive Natural Communities*

The proposed project is not expected to result in impacts to riparian vegetation or sensitive natural communities. However, since work areas will occur immediately adjacent to riparian habitat and sensitive natural communities associated with Winter Canyon Creek, Malibu Creek, and Malibu Lagoon.

The injection of treated wastewater into groundwater aquifers will increase the volume of naturally occurring groundwater discharge to the Malibu Lagoon. By extension, this could affect riparian habitat, southern coastal salt marsh, and/or southern California coastal lagoon conditions. However, per Section 4.7 (Hydrology and Water Quality) of this EIR, no appreciable change is expected to the minimum depth to groundwater at Malibu Lagoon or Malibu Creek. Furthermore, if the existing condition were maintained, the volume of groundwater would increase by 45 percent instead of the approximately 3 percent as with the proposed project under anticipated operating conditions.

### *Jurisdictional Features*

Jurisdictional features, including federally protected waters, do not occur within the disturbance footprint of the project. As currently proposed, only street level modifications would be made on the PCH bridge that occurs above Malibu Lagoon, a feature that would be a jurisdictional feature. In addition, work areas associated with auguring under Malibu Creek would be placed outside the jurisdictional limits for that feature. However, regulatory agency jurisdiction (ACOE, RWQCB, or CDFW) over the Creek would require that appropriate permits, or other agreements regarding the auguring process be obtained and adherence to any measures to protect wildlife contained in these permits/agreements would be required.

### *Wildlife Corridor*

The project site supports one regionally important wildlife corridor, Malibu Creek. The proposed project would not result in any direct impacts to Malibu Creek, but would cause temporary indirect impacts during construction that could significantly impact some species that would be utilizing Malibu Creek for movement, such as southern steelhead and tidewater goby.

### *Environmentally Sensitive Habitat Areas (ESHAs)*

Several ESHAs occur within the project site. Additionally, the new proposed driveway and associated stormwater infiltration area to be constructed in the footprint of the existing unpaved driveway at the proposed wastewater treatment facility site occurs within the 100 foot ESHA wetland buffer of Winter Canyon Creek. In addition, the Phase 2 pipelines would cross through ESHA, beneath Malibu Creek and over Malibu Lagoon along the PCH bridge.

California black walnut trees, a CRPR 4 plant, occur within the proposed wastewater treatment facility site, which would be constructed as part of Phase 1 of the project. This species is protected by the LCP/LIP tree ordinance. Based on current design, five walnut trees would be removed and three additional walnut trees would experience temporary impacts due to construction.

Additionally, a portion of Phase 2 of the project occurs within the County's jurisdiction and beyond the limit of the City of Malibu where native oaks are legally protected from being damaged or removed during the course of a project if they have a single-trunk diameter at breast height (DBH) of 8 inches or more, if any two trunks have a combined DBH of 12 inches or more, or if it is considered heritage. Although pipelines would be constructed underground and along existing roadway easements, native oaks that occur adjacent to the roadways may have roots extending under or branches extending over the roadways.

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 FEIR.

Facts in Support of Finding: Implementation of Mitigation Measures BIO-1 through BIO-17 would ensure that the proposed project does not result in any significant impacts to biological resources, including special-status species and their habitats or jurisdictional features.

### 3. CULTURAL RESOURCES

Significant Impact: Archaeological field surveys concluded that there are no observable cultural resources, including artifacts or altered soil, indicating the presence of prehistoric archaeological remains on the project site. Archaeological records searches revealed that no archaeological or historic sites exist on the project site. Therefore, damage to, destruction, or disturbance of known important cultural, paleontological, or archaeological resources would not be expected to occur.

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 FEIR.

Facts in Support of Finding: Implementation of the Mitigation Measures AR-1 and AR-2 would ensure that the proposed project does not result in any significant cultural resource impacts. Implementation of Mitigation Measure PR-1 would ensure that the proposed project will not result in any significant paleontological resource impacts.

### 4. GEOLOGY AND SOILS

Significant Impact: Construction of the proposed project would entail the removal of approximately 7,771 cubic yards (cy) of material at full build-out. In addition, the Project would import approximately 3,000 cy of material for use as fill.

#### *Geotechnical Hazards*

The geotechnical engineering reports for the parcels have been reviewed from a geotechnical perspective and approved-in-concept by the City's consulting Geologist. Based upon the findings of the geotechnical investigation, supplemental response reports, and subsequent conditions imposed through the remarks noted on the City's conformance review for said reports, the site is considered suitable for the planned development.

It is assumed that the site would be developed in compliance with all existing local, City, county, state and federal laws, regulations, codes, and statutes applicable to the geology, soils seismicity, and soil conditions outlined in the project geotechnical

engineering and investigation reports, and subsequent comments and conditions of the approval in concept granted by the City for the project. Compliance and adherence to project design measures mentioned herein will reduce potentially significant impacts to less than significant levels.

#### *Groundshaking-Seismicity*

Property owners and the general public should be aware that any structure in the southern California region is subject to potentially significant damage as a result of a moderate or major earthquake. The project will increase the potential for human health hazards and destruction of property to occur on the project site during a sizable seismic event. The risks associated with seismic activity are unavoidable and inherent to any location throughout the southern California region. While it is impossible to totally prevent structural damage to buildings and loss of life as a result of seismic events, adherence to all applicable building codes and regulations and site-specific engineering specifications can reduce such impacts to less than significant levels.

If engineering studies using state-of-the-practice techniques are employed, the impacts from ground rupture can be accounted for with setbacks and foundation designs to accommodate several inches of movement. Surface rupture potential is considered low to moderate, and the impacts are considered significant but mitigable.

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 FEIR.

Facts in Support of Finding: Implementation of Mitigation Measures GEO-1 through GEO-7 will reduce the impact to geology and soils to a level less than significant.

## 5. HAZARDS AND HAZARDOUS MATERIALS

Significant Impact: Construction of the proposed project would involve the use of materials that are generally regarded as hazardous, such as gasoline, diesel fuel, hydraulic fluids, paint, and other similar materials. The risks associated with the routine transport, use, and storage of these materials during construction are anticipated to be relatively small. With appropriate handling and disposal practices, there is relatively little potential for an accidental release of hazardous materials during construction, and the likelihood is small that workers and the public, including nearby schools, would be exposed to health hazards.

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 FEIR.

Facts in Support of Finding: Implementation of Mitigation Measures HM-1 through HM-4 will reduce the construction and operational impacts relating to the storage, use, management and/or disposal of hazardous materials to a level less than significant.

## 6. HYDROLOGY AND WATER QUALITY

Significant Impact: The wastewater treatment facility site is outside the tsunami inundation zone identified by the City of Malibu, but the pump stations, injection wells and a large portion of the pipelines are within the tsunami inundation zone. However, because these structures are not habitable, and would, for the most part, be located underground, they would not subject humans to these hazards. Above-grade structures associated with the pump stations and injection well sites, including electrical panels, transformers and generators, could potentially be impacted by tsunami flows and could pose a potentially significant impact.

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 FEIR.

Facts in Support of Finding: Implementation of Mitigation Measure HY-1 will reduce the impact to a level less than significant.

### B. Project-Level Impacts Determined to be Significant, Unavoidable and Mitigated to the Maximum Feasible Extent

The Final EIR identifies project-level impacts in the resource area of Construction Noise that cannot be fully mitigated and are therefore considered unavoidable. To the extent the impacts remain significant and unavoidable, such an impact is acceptable when weighed against the overriding social, economic, legal, technical and other considerations, including beneficial effects of the project, which are described in the Statement of Overriding Considerations in Section 6.

#### 1. CONSTRUCTION NOISE

Significant Impact: Noise impacts resulting from construction of the proposed project have been found to be potentially significant and unavoidable. Noise levels could be as loud as 89 dBA Leq<sup>1</sup> during construction of the treatment facility and proposed pipeline network due to the use of heavy equipment such as excavators, and jack-and-bore auger drill. City and County Codes exempt construction activity, provided that it does not occur on weekdays between the hours of 7 p.m. and 7 a.m. (and 5 p.m. and 8 a.m. on Saturdays in the City) or at any time on Sundays or holidays. However, the County of Los Angeles requires that mobile equipment not exceed a maximum threshold of 75 dBA at single-family residential land uses. The City does not have a mobile equipment

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<sup>1</sup> dB = decibel; dBA = A-weighted sound level, which is the most common way of characterizing sound; Leq = equivalent noise level; dBA Leq = average A-weighted noise level during a measurement period.

noise standard. Construction of the project would result in temporary increases in noise levels near single-family residential land uses. The increase in noise levels during construction would range from 21 to 36 dB over existing ambient levels. Furthermore, periodic testing of the emergency power generators associated with the pump stations would cause temporary increases in noise levels at receivers located within the City. Noise levels could exceed this noise threshold for a short period of time thereby exposing people to noise levels in excess of established County thresholds. In the event the proposed project is approved despite these significant noise impacts, a Statement of Overriding Considerations will be required to be adopted by the decision-makers.

Finding: Impacts from the project's construction noise impacts are reduced by identified mitigation measures but cannot be mitigated to a less than significant level. The City Council finds that, to the extent the impacts remain significant and unavoidable, such impacts are acceptable when weighed against the overriding social, economic and other considerations set forth in the Statement of Overriding Considerations in Section 6.

Facts in Support of Finding: Implementation of Mitigation Measures NV-1 and NV-2 is required to address construction noise; however, this issue will remain significant and unavoidable during the construction phase of the project. The aforementioned mitigation measures indicate that the identified significant effects of the project have been reduced or avoided to the extent feasible.

C. Cumulative Impacts Associated with the Project which Remain Potentially Significant and Unavoidable.

The Final EIR identifies cumulative impacts associated with the project in the resource area of Construction Noise that remain potentially significant and unavoidable. To the extent the impacts remain significant and unavoidable, such an impact is acceptable when weighed against the overriding social, economic, legal, technical and other considerations, including beneficial effects of the project, which are described in the Statement of Overriding Considerations in Section 6.

1. CONSTRUCTION NOISE

Significant Impact: Construction of the proposed project would result in potentially significant and unavoidable noise impacts to neighboring properties. The cumulative analysis of impacts in regards to noise is limited to the time when the construction activities occur and the proximity of other projects that are under construction or other sources of noise in the immediate vicinity of proposed project construction activities. Construction impacts do not occur once construction has ceased. Reasonably foreseeable future projects could contribute to a cumulatively significant impact but only if located in proximity to the project site. Because the proposed project's pipeline system would extend throughout the network of roadways surrounding the proposed wastewater treatment facility, it is possible that construction of some projects may overlap with construction of the proposed project.

Finding: Impacts from the project's contribution to significant construction noise impacts are reduced by identified mitigation measures but cannot be mitigated to a less than significant level. The City Council finds that, to the extent the impacts remain significant and unavoidable, such impacts are acceptable when weighed against the overriding social, economic and other considerations set forth in the Statement of Overriding Considerations in Section 6.

Facts in Support of Finding: The following facts or mitigation measures indicate that the identified significant effects of the project have been reduced or avoided to the extent feasible; however, those impacts cannot be feasibly mitigated to below a level of significance, are temporary in nature, and the remaining unavoidable effects are acceptable when balanced against the specific overriding economic, legal, social, technological or other considerations described in the Statement of Overriding Considerations in Section 6.

Implementation of Mitigation Measures NV-1 and NV-2 will reduce the impacts to a less than significant level; however, the cumulative impacts associated with the potential for noise impacts from construction of the proposed project to be combined with that from construction of other projects proximate to it remains significant and unavoidable.

Section 4. Alternatives Analysis.

Based upon the testimony and other evidence in the record, and upon studies and investigation made for the project, the City Council further finds that the Final EIR analyzes a reasonable range of project alternatives. The feasible alternatives in the Final EIR are discussed in Finding A3 of Section 10 of this resolution.

Section 5. General Findings.

Based upon the testimony and other evidence received, and upon studies and investigation conducted for the project, the City Council finds:

- A. The Final EIR for this project is adequate, complete, and has been prepared in accordance with CEQA.
- B. The City Council has reviewed and considered the Final EIR in reaching its conclusion.
- C. In accordance with CEQA Guidelines Sections 15091 and 15093, the EIR includes a description of each potentially significant impact and rationale for finding that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as detailed in Section 3.
- D. In accordance with Public Resources Code Section 21081 and CEQA Guidelines Section 15091, changes and alterations have been required and incorporated into the Civic Center Wastewater

Treatment Facility Project and related entitlements which avoid or substantially lessen the significant environmental effect because feasible mitigation measures included in the MMRP, Exhibit A to this resolution, are made conditions of approval for this project.

- E. The Final EIR reflects the City's independent judgment and analysis.

Section 6. Statement of Overriding Considerations.

Based upon the testimony and other evidence received, and upon studies and investigation conducted for the project, the City Council has determined that, although EIR mitigation measures and conditions of approval imposed on the project will provide substantial mitigation of the identified significant environmental project-level and cumulative effects pertaining to Construction Noise discussed in Section 3(B) and (C), these environmental effects cannot be feasibly mitigated to a level of insignificance. Consequently, in accordance with CEQA Guidelines Section 15093, a Statement of Overriding Considerations has been prepared to substantiate the City Council's findings that these significant, unavoidable impacts are acceptable when balanced against the specific overriding economic, legal, social, technological and other considerations and community benefits afforded by the project.

**SPECIFIC, OVERRIDING COMMUNITY BENEFITS OF THE PROJECT THAT OUTWEIGH THE SIGNIFICANT EFFECTS ON THE ENVIRONMENT**

1. The project will provide the City with a centralized wastewater collection and treatment facility, replacing the need for the use of decentralized wastewater treatment facilities and OWTSS within the Prohibition Area.
2. The project will allow the City to comply with LARWQCB Resolution No. R4-2009-007, requiring the cessation of discharges from OWTSS in the Prohibition Area.
3. The project will allow the City to comply with the terms of the MOU with the LARWQCB.
4. The project will support improved surface water quality in Malibu Creek and Lagoon and at the adjacent Surfrider Beach.
5. The project will result in the production of disinfected tertiary-treated recycled water that may be reused for any non-potable use, thereby offsetting the need for imported potable water for the same use.
6. The project will provide fiscal benefits to the City's general fund.

Any one or a combination of these specific community benefits would outweigh the unavoidable environmental impacts of the project.

Section 7. The City Council has reviewed and considered the environmental information contained



in the Final EIR (SCH # 2013111075) and determines that it is adequate and in compliance with CEQA (Public Resources Code, Section 21000 et seq.). In compliance with Public Resources Code Section 12081 and CEQA Guidelines Section 15093, the City Council has considered the project benefits as balanced against the unavoidable adverse environmental effects and hereby determines that any of the overriding considerations listed in the Statement of Overriding Considerations outweighs the unavoidable adverse environmental effects; therefore, the City Council determines that the adverse environmental effects are considered acceptable.

Section 8. The City Council hereby adopts the Statement of Overriding Considerations.

Section 9. The City Council hereby adopts the Mitigation Monitoring Program attached hereto as "Exhibit A" and made a part hereof.

Section 10. Approval of Entitlements.

Based on substantial evidence contained within the record and pursuant to LIP Sections 13.7(B) and 13.9, the City Council hereby adopts the findings in the staff report, the findings of fact below, and approval of Coastal Development Permit No. 13-057 and Conditional Use Permit No. 13-005 for Phase 1 of the Civic Center Wastewater Treatment Facility Project, including construction of a wastewater collection system, a centralized wastewater treatment facility, a recycled water pipeline, and ancillary facilities, including a conditional use permit to allow treatment plant public utility facilities uses within the Commercial Visitor Serving-1 (CV-1), Commercial Visitor Serving-2 (CV-2) and Public Open Space (POS) zoning districts.

The proposed project has been reviewed by the City Public Works Department, City Geologist, City Environmental Health Administrator, City Biologist, the LACFD and the Los Angeles County Sheriff. The proposed project is consistent with the LCP's zoning, grading, cultural resources and water quality requirements. The project has been determined to be consistent with all applicable LCP codes, standards, goals and policies. Additionally, CUP No. 13-005 has been reviewed for compliance with M.M.C. Section 17.66.080. The required findings can be made as follows.

**A. General Coastal Development Permit (LIP Chapter 13)**

Pursuant to LIP Section 13.9, the following four findings need to be made for all coastal development permits.

*Finding A1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.*

The project includes construction of Phase 1 of the Civic center Wastewater Treatment Facility project to address the prohibition on OWTS discharges imposed by the Water Boards and as specified in the MOU. The service area for Phase 1 includes the commercial properties of the Civic Center area, as well as Our Lady of Malibu church and school and the Crummer and Tow Site residential subdivisions that are entitled but not yet constructed. The treatment plant will be located at the site of an existing privately owned and operated package treatment plant at 24000 Civic Center Way. Two below-grade

pump stations and ancillary above-ground equipment will be constructed, one in Legacy Park, and one in Malibu Bluffs Park. Two pipeline systems will be constructed within a single trench within public and private streets and easements. One pipeline will convey wastewater to the treatment plant, while the other will distribute recycled water treated to standards of Title 22 of the California Code of Regulations for irrigation and other reuse purposes, and also to injection wells for disposal into the Malibu Valley Groundwater Basin.

If LCPA No. 13-002 / ZTA No. 13-008 are approved, the project, as conditioned, conforms to the certified LCP in that it meets all the required development standards proposed in the amendment. In addition, as discussed herein, all other required LCP findings can be made.

*Finding A2. If the project is located between the first public road and the sea, that the project [conforms to] the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).*

Portions of the project are located between the first public road and the sea; however, the project will not impact public access and recreation in that proposed development will not block existing public trails or recreation areas. Therefore, the project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

*Finding A3. The project is the least environmentally damaging alternative.*

According to the CEQA Guidelines Section 15064(d), "In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project." As described in more detail in Chapter 5 of the Final EIR, the following four alternatives, plus the proposed project, were considered:

A. The No Project Alternative (Alternative A)

This alternative does not alter the site in any way or increase traffic or site lighting, modify viewsheds or impact groundwater quality. This alternative assumes nothing is proposed or approved on the sites and that the current condition on all sites remains. For example, no buildings or structures would be constructed on the proposed facility site, no collection system would be installed, no recycled water would be generated, and no injection wells would be installed. Use of OWTSS would continue along with existing discharges from these systems. The No Project Alternative will have reduced environmental impacts when compared to the proposed project but will not meet the project objectives of complying with the Water Boards' orders requiring the cessation of discharges from OWTSS in the Prohibition Area and meeting the terms of the MOU with the LARWQCB.

The City Council finds that the No Project Alternative is infeasible because it would not comply with LARWQCB Resolution No. R4-2009-007, requiring the cessation of discharges from OWTSS in the Prohibition Area. Specifically, the No Project Alternative would not

allow for the creation of a new centralized wastewater treatment facility and collection system or allow for the generation and use of disinfected tertiary-treated recycled water as a means for offsetting potable water use by the City of Malibu and its residents. The No Project Alternative would thwart the goal of improving water quality in Malibu Creek and Lagoon and the nearshore environment that is being impacted by OWTS discharges in the groundwater basin, and may result in the issuance of fines to individual property owners by the LARWQCB for noncompliance with the aforementioned order.

B. Wastewater Treatment Facility with Ocean Outfall Alternative (Alternative B)

In this alternative, the wastewater treatment facility would be constructed as planned under the proposed project, along with the planned collection system, associated pump stations, and recycled water delivery system. Dispersal of unused recycled water via injection into the Malibu Valley Groundwater Basin and/or percolation into the Winter Canyon groundwater basin would not be considered under this alternative; instead, the remaining unused recycled water would be diverted to an ocean outfall and diffuser.

The ocean outfall would be up to 10 feet in diameter at its outlet, would extend between 1,300 and 5,000 feet offshore, anchored to the sea floor, and would be discharging at a depth of 30 to 100 feet below the ocean surface. The end of the outfall would be equipped with diffusers, such as duckbill diffusers, to ensure mixing of treated effluent and seawater and to minimize the zone of initial dilution (ZID) associated with the outfall. The recycled water pipeline would be connected to the ocean outfall at one of the public beach access points located off Malibu Road, on the west side of the Prohibition Area. Discharges from the outfall would occur continuously. Maintenance would involve annual subsea inspection and repairs as necessary.

The ocean outfall alternative was evaluated for the same impact categories as the proposed project and was found to have similar impacts to the proposed project, but greater impacts to hydrology-water quality and possibly greater impacts to air quality. Additionally, the complexity and time associated with obtaining the regulatory approvals and entitlements required for a new ocean outfall could be incompatible with the parameters and commitments set forth in the MOU and would likely impede the City's efforts to satisfy its obligations set forth in the MOU. Furthermore, public comments received by the City during the Prohibition proceedings indicate that a new ocean outfall disposal option would likely meet with significant opposition from some non-governmental organizations.

The City Council finds that Alternate B – Ocean Outfall will not meet the project objectives to the same extent as the proposed project, and that the preferred alternative provides a more acceptable dispersal means for unused recycled water.

C. Alternative Wastewater Treatment Facility Site (Alternative C)

In this alternative, the wastewater treatment facility would be constructed as planned under the proposed project, but at an alternative location - a 9-acre property located approximately

0.2 mile north of Civic Center Way known as the Wave property (APN 4458-022-019, 23571 Civic Center Way). The Wave property is located north of and behind the Los Angeles County Malibu public library and former Los Angeles County Superior Court, West District Office on Civic Center Way. The site is currently accessed via a narrow dirt path east of the public library. In the future, a paved access road would lead to the plant site. The proposed La Paz development is located east of this wastewater treatment plant site and the Malibu Knolls neighborhood is located north of the site.

A facility at this alternative site would be a membrane bioreactor facility producing recycled water that meets or exceeds current Title 22 requirements for unrestricted reuse (the same as the proposed project). The treatment facility would be residentially-scaled, visually screened, fully odor-scrubbed, and designed to operate quietly. The facility site would also contain a 250,000-gallon recycled water storage tank (not required for the proposed project) and a pump station. In this alternative, unused recycled water could be percolated into the ground using the existing commercial leach fields located at various locations throughout the Civic Center area and/or directly injected into the groundwater basin. The collection pipelines, associated pump stations, and recycled water distribution system would be essentially the same. At this location, the wastewater treatment plant site would be visible from residences to the north, but would be screened from view from the south and east. From the west, residents may have far-off views of the plant site. Construction and operating practices at this alternative facility site would be comparable with those anticipated for the proposed project.

The alternative treatment facility location was evaluated for the same impact categories as the proposed project and was found to have similar impacts to the proposed project, but with fewer impacts to biological resources and greater (or possibly greater) impacts to aesthetics/visual resources, geology and noise. It is noted that the proposed project site is owned by a willing seller, who has expressed interest in selling the site to the City of Malibu, which is not the case for the alternative treatment facility site. The proposed project site also already houses a wastewater treatment facility, so the proposed wastewater treatment plant is more compatible with the existing use of the site, as compared to the alternative site, which is completely vacant. Finally, the proposed project site affords better percolation potential as the existing seepage pits on the site could be used without the need to construct additional piping, thus spreading out percolation into two separate groundwater basins, while the alternative site is located in the same groundwater basin as the proposed injection wells.

The City Council finds that Alternate C – Alternative Wastewater Treatment Facility Site will meet the project objectives to the same degree as the preferred alternative but may result in greater environmental impacts.

**D. Pipe Effluent to the Hyperion Wastewater Treatment Plant (Alternative D)**

In this alternative, the proposed wastewater collection system would be constructed as planned, but rather than be treated locally, the wastewater would be sent to the Hyperion Wastewater Treatment Plant (HWTP) in the City of Los Angeles for treatment. The proposed

wastewater treatment plant, recycled water distribution system, and dispersal system (percolation ponds and injection wells) would not be constructed; rather, the collection system and pump stations would be constructed along with a new 22-mile 4-inch diameter PVC transmission pipeline placed in and/or along PCH. Additionally, two new pump stations would be located along the pipeline alignment beyond the City limits to provide the necessary pressure for delivery of the wastewater to HWTP. These pump stations would be of similar design and construction to the proposed collection system pump stations

This alternative was evaluated for the same impact categories as the proposed project and was found to have greater impacts to the proposed project for all impact categories except aesthetics and biological resources, where there would be fewer impacts, and population and housing where there would be similar impacts as the proposed project.

The City Council finds that Alternate D – Pipe Effluent to the Hyperion Wastewater Treatment Plant will meet the project objectives to the same degree as the preferred alternative but will likely result in greater environmental impacts.

E. The Preferred Alternative

This alternative is described in detail throughout the associated staff report and Final EIR as the proposed project. The project does reduce significant impacts through the implementation of mitigation measures and construction best management practices, and meets the project objectives of complying with LARWQCB Resolution No. R4-2009-007, requiring the cessation of discharges from OWTSS in the Prohibition Area. The Final EIR provides substantial evidence that the proposed project will result in no significant impact to Aesthetics, Greenhouse Gas Emissions, Land Use, Noise, Recreation, Agricultural Resources, Mineral Resources, Population and Housing, Public Services and Utilities and Service Systems. With regard to the remaining environmental subject areas (Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials and Hydrology and Water Quality and Transportation and Traffic), any impacts posed by the proposed project are less than significant with the implementation of mitigation measures. Construction noise impacts were found to be significant and unavoidable; however, they will be temporary in nature, during the construction phase and pump station emergency testing only, and minimized to the extent feasible by mitigation measures MM NV-1 and MM NV-2.

Based on substantial evidence in the record, the City Council finds that the proposed project is the least environmentally damaging alternative.

*Finding A4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.*

According to the Habitat Assessment, Tree Protection Plan and Jurisdictional Delineation prepared by

ICF, International for the project (including in the Final EIR as Appendices C, D and E, respectively), the proposed treatment plant property contains environmentally sensitive habitat area (ESHA), specifically, wetland ESHA, jurisdictional drainage resources as well as protected native trees. Therefore, the project required review by the Environmental Review Board (ERB). The subject coastal development permit and Draft EIR were reviewed by the ERB on July 23, 2014. The ERB made several recommendations for the proposed project. As detailed in the accompanying agenda report, all feasible recommendations have been incorporated into to the project and no additional conditions of approval were required. The project conforms to the recommendations of the ERB.

**B. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)**

As noted in Finding A4, the treatment plant site supports wetland ESHA and protected native trees. The project area also includes roosting habitat for nesting birds and special status bat species. As required by LCPA No. 13-002, treatment plant construction is expected to avoid all wetland ESHA and the required 100 foot wetland ESHA buffer, except for driveway construction, which overlays the existing driveway as much as feasible. Furthermore, no impacts to ESHA or native trees are expected to occur as a result of Phase 1 pipeline or pump station construction. Consistent with the development standards required by the LCPA, the project will offset the buffer encroachment on the treatment plant site by installing an equivalent area of native planting on the site in an area that is currently disturbed or supports non-native vegetation.

Furthermore, because the LARWQCB requires the Civic Center Wastewater Treatment Facility project to maximize the use of reclaimed water produced by the facility and, where possible, to substitute the reclaimed water for potable water uses, the LCPA explicitly identifies the proposed treatment facility as a “necessary water supply project that includes incidental public service purposes, including but not limited to, burying cables and pipes or inspections and maintenance” for purposes of LIP Chapter 4.

On July 15, 2014, the City Biologist determined that, subject to the conditions of approval and mitigation measures of the MMRP (included in this resolution as Exhibit A), the Phase 1 project is consistent with the LCP, as amended by LCPA No. 13-002, and the supplemental ESHA findings of LIP Section 4.7.6 do not apply.

**C. Native Tree Protection Ordinance (LIP Chapter 5)**

The provisions of the Native Tree Protection Ordinance only apply to those areas containing one or more native Oak, California Black Walnut, Western Sycamore, Alder or Toyon trees that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, four and one-half feet from the ground. As discussed in the ESHA section above, the treatment plant site contains 15 protected native California black walnut trees, five of which would be removed by the project and three of which would be encroached upon. No protected native trees are located in the injection well locations or in the proposed pump stations sites in Legacy Park and Malibu Bluffs Park. The findings required by LIP Chapter 5 are made below.

*Finding C1. The proposed project is sited to minimize removal of or encroachment into the protected zone of native trees to the maximum extent feasible.*

The treatment plant site has the following unique siting and design requirements that prevent complete avoidance of all protected native trees on the site:

- Keeping existing wastewater treatment facility operational during new plant construction;
- Maintaining certain existing facilities for use by the new plant (i.e., underground storage tank and seepage pits);
- Existing and nearby driveways, traffic light;
- Onsite wetland and riparian ESHA and steep slope areas;
- Fire Department 26 foot access driveway requirement; and
- Engineering design requirements for the facility, such as pad size and elevation and placement of treatment modules for future phases.

Development and facility locations have been placed to avoid as many of the 15 protected native trees on the site as possible. Five trees will be removed by the project, and the protected zones of three others will be encroached upon.

*Finding C2. The adverse impact of tree removal and/or encroachment cannot be avoided because there is no other feasible alternative.*

It is not feasible to avoid the adverse impacts of removing the five trees and encroaching upon three protected zones due to the siting constraints listed in Finding C1.

*Finding C3. All feasible mitigation measures that would substantially lessen any significant impact on native trees have been incorporated into the approved project through design or conditions of approval.*

The project complies with the LCPA standards requiring avoidance of native trees as much as feasible, will protect remaining trees as called for in the Native Tree Protection Plan, and will pay the in lieu mitigation fee for the five trees to be removed. This resolution includes conditions of approval to this effect, along with the requirement to implement the MMRP (Exhibit A). Although no protected native trees are expected to be encountered along the pipeline alignment in public and private streets, a native tree survey will be conducted for confirmation prior to construction. The project complies with LIP Chapter 5.

#### **D. Scenic, Visual and Hillside Resource Protection Ordinance (LIP Chapter 6)**

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. PCH and Malibu Canyon Road are designated as scenic roadways per the LCP. The treatment plant site is briefly visible from PCH, and is visible from a distance from a portion of Malibu Canyon Road. The site is also visible from the private viewing areas of the multifamily residences across Civic Center Way. In addition, Legacy Park and Malibu Bluffs Park are designated scenic areas. The findings of LIP Section 6.4 are made below.

*Finding D1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.*

At present, the treatment plant site contains existing wastewater facilities, such as large white trickling filter tanks, and has utilitarian, semi-industrial character, with no landscaping or architectural features. Story poles were installed in May 2014 to depict the location, height and mass of the Phase 1 project. The placement of the story poles was certified by a professional land surveyor. A visual analysis of the project's visual impact from public viewing areas was conducted through site reconnaissance, a review of the story poles, architectural plans, visual simulations and an investigation of the character of the surrounding properties. Visual simulations of the treatment plant site were prepared that incorporate extensive landscape screening and illustrate how the site is expected to look in five years and in 20 years. A complete visual analysis, including visual simulations, is included in Section 4.1 of the Final EIR.

The appearance of the treatment plant site will change as a result of the project, in part due to the loss of five native trees, but also from construction of new, architecturally and vegetatively screened facilities and new landscaping. Though the landscape screening will be extensive, fuel modification requirements of the Fire Department limit some planting by prohibiting trees and shrubs that are located too close to, or overhang, structures. Consequently, some buildings and facilities on the site will still be visible from Malibu Canyon Road and PCH, as well as from some of the residences across Civic Center Way; however, by meeting the design standards in LCPA No. 13-002, the facilities will blend into the surrounding natural environment and are not expected to result in significant adverse visual impacts. The above-ground facilities associated with the pump stations will be visible from the parks, but will be hidden in cabinets and/or screened by vegetation. While not in a scenic area, the injection wells on Malibu Road will also be screened and/or landscaped to blend with the surrounding area. The visual impact of the removed native trees will be mitigated by the new native landscape screening installed in the site.

The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

*Finding D2. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.*

As stated in Finding D1, as conditioned, will have no significant adverse scenic or visual impact. Conditions of approval require that colors and materials be used that blend with the natural environment, and site lighting is conditioned to be dark-sky compliant and minimized to the amount necessary for public safety.

*Finding D3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.*

As discussed in Finding A3, the project as conditioned is the least environmentally damaging feasible alternative.

*Finding D4. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.*



The proposed project does not pose any significant adverse impacts on scenic and visual resources. As discussed in Finding A3, the project, as conditioned, will result in a less than significant impact on scenic and visual resources.

*Finding D5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.*

As discussed in Findings A3 and D1, the project as conditioned will have no significant adverse scenic and visual impacts. With the incorporation of mitigation measures outlined in the MMRP (Exhibit A), potential impacts to sensitive resources (e.g., native tree protection) have been mitigated to a less than significant level.

**E. Transfer of Development Credits (LIP Chapter 7)**

LIP Chapter 7 applies to land division and/or multi-family residential development in the Multiple Family or Multi-Family Beachfront zoning districts. This project does not involve such development; therefore, the findings of LIP Chapter 7 do not apply.

**F. Hazards (LIP Chapter 9)**

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity. The project was analyzed for the hazards listed in LIP Section 9.2(A). The required findings of LIP Chapter 9 are made as follows:

*Finding F1. The project, as proposed, will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.*

The applicant submitted the following documents/data, which are on file at the City:

- Geotechnical Investigation Report: Wastewater, Recycled Water, and Effluent Dispersal Infrastructure, by Geosyntec Consultants, Inc. dated November 7, 2013
- Addendum dated November 7, 2013
- Geotechnical Investigation Report dated June 30, 2014

The City Geotechnical staff and the City Public Works Department have reviewed the EIR, project plans and associated technical submittals. On August 20, 2014, the City Geologist issued an approval in concept for conformance with City geotechnical standards and LCP requirements. Standard conditions of approval will be included to require that all recommendations of the consulting Certified Engineering Geologist, Geotechnical Engineer and all the plan check stage comments of the City Geotechnical staff shall be incorporated into all final design and construction plans, including

foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by City Geotechnical staff prior to the issuance of a grading permit.

In these reports, site-specific conditions were evaluated and recommendations were provided to address any pertinent issues. Based on extensive review of the above-referenced information, it has been determined that:

1. The buildout project service area is not located within an Alquist-Priolo Earthquake Fault Zone. It is unlikely that the project site will be impacted by active faulting or ground rupture; however, the Civic Center area is located in an area of high seismicity, generally.
2. The Seismic Hazards Zones map identifies earthquake-induced landslide hazard zones in the steep hillside portions of the overall project service area, but none of these are located in Phase 1.
3. Much of the buildout project service area, including the treatment plant site, is in a liquefaction zone.
4. The project area contains some areas of slope instability.
5. The treatment plant site is outside of the tsunami inundation zone, but injection wells and some pipelines are within the potential tsunami inundation zone.
6. Portions of the property are located within the Federal Emergency Management Agency's (FEMA's) 100 year flood zone.
7. The project site is in the vicinity of extreme fire hazard areas.

Ground-shaking / Seismicity – The project area is in a seismically active area of Southern California and may experience severe shaking in the future from the Malibu Coast Fault and other nearby faults. While it is impossible to totally prevent structural damage to buildings and loss of life as a result of seismic events, adherence to all applicable building codes and regulations and site-specific engineering specifications can reduce such impacts to less than significant levels. If engineering studies using state-of-the-practice techniques are employed, the impacts from ground rupture can be accounted for with setbacks and foundation designs to accommodate several inches of movement. Surface rupture potential is considered low to moderate, and the impacts are considered significant but mitigable. Implementation of Mitigation Measures GEO-1 through GEO-7 will reduce the impact to geology and soils to a level less than significant.

Liquefaction - Geotechnical studies identified potentially liquefiable soils within the treatment facility site. Based on site inspections, the potential for soil liquefaction-induced lateral spreading is considered low as the potentially liquefiable soil layer is not continuous and liquefiable lenses are relatively deep, approximately 10 to 25 feet below the ground surface. Depth to groundwater at the location of the proposed percolation ponds is 30 feet or more, and percolation at this location would not elevate these water levels such that they would increase the potential for liquefaction. Also, pipelines could be subject to rupture hazards from liquefaction. Design and construction of the project will incorporate appropriate engineering practices to ensure seismic stability, as required by the California Building Code. Proper design and construction using standard techniques, such as permanent dewatering, ground modification, and reinforced mat or deep-pile foundations, will be employed to ensure that facilities will not be damaged by liquefaction. Geosyntec evaluated the potential for the injection wells to increase liquefaction and determined that the increases in groundwater levels as a result of injection would have a negligible effect on liquefaction potential. Liquefaction is addressed in Section 4.5.2 in

Section 4.5 (Geology and Soils); see Impact GEO-3, and the project impacts will be less than significant.

Tsunami Inundation Zone – Above grade structures associated with the injection well sites, including electrical panels, transformers and generators, could potentially be impacted by tsunami inundation; however, implementation of MM HY-1 for preparation of a tsunami response plan would reduce the risk to less than significant.

Slope Instability – While the treatment plant site is naturally buttressed and thought to be stable, the project will require additional measures to confirm stability. In addition, there is the potential for localized sloughing of steep slopes and overhangs, as well as toppling of soil columns during construction, which are potentially significant impacts. Surface runoff, groundwater seepage, and earthquake shaking were also considered to be contributors to the weakening and toppling of temporary slopes and reducing soil shear strength. In general, these geologic and seismic hazards can be reduced by employing sound best management practices (BMPs), such as protecting graded or disturbed areas, including slopes, in accordance with the approved erosion control plan. MM GEO-4 through GEO-6 are incorporated to minimize hazards to construction workers from unstable temporary slopes and ensure that no significant adverse impacts would occur. Recycled water irrigation on sloped lands will be applied at agronomic rates in accordance with project permit requirements, reducing the potential for slope instability resulting from over-irrigation. Slope stability impacts will be less than significant.

FEMA Flood Hazard Zone – The treatment plant site, Bluffs Park pump station and the injection well heads are outside of the 100 year floodplain. However, the Legacy Park pump station is located in the 100 year floodplain. The existing detention pond at Legacy Park is expected to provide capacity to address the potential for onsite flooding, and above-ground features would be mounted on concrete pedestals at elevations above the anticipated flood levels. Therefore, impacts would be less than significant.

Fire Hazard - The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone, a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. The site has been affected by wildfires in the past. Most recently, an October 2007 wildfire severely burned portions of the Civic Center area and the treatment plant site. On November 21, 2014, LACFD approved a preliminary fuel modification plan for the treatment plant site. The preliminary fuel modification plan was prepared in accordance with the LACFD Fuel Modification Plan Guidelines and identifies specific zones within the property that are subject to fuel modification. The design will also incorporate alternative fuel modification measures to allow for more effective visual landscape screening, such as irrigated, fire-resistant plant species. The LACFD will review and approve the final fuel modification plan prior to issuance of grading/building permits. LACFD has also reviewed the project and approved the project in concept for conformance with the Fire Code. Construction of the proposed structures will utilize ignition-resistant materials and design features, such as the required 26 foot wide access driveway, to complement the provided fuel modification.

Impacts associated with hazards will be less than significant.

*Finding F2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.*

As stated in Finding F1, the proposed project, as conditioned and approved by City Geotechnical staff, City Public Works Department and the LACFD, will not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to project modifications, landscaping or other conditions.

*Finding F3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.*

As stated in Finding A3, the proposed project is the least environmentally damaging alternative.

*Finding F4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.*

As stated in Finding F1, the proposed project as designed, conditioned, and approved by the City Geotechnical staff, City Public Works Department and the LACFD, will not have any significant adverse impacts on the site stability or structural integrity of the proposed project.

*Finding F5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.*

As stated in Finding F1, the proposed project, as designed, conditioned, and approved by the City Geotechnical staff, City Biologist, City Public Works Department and the LACFD, will not have any significant adverse impacts on sensitive resources as enumerated by the LCP.

#### **G. Shoreline and Bluff Development Ordinance (LIP Chapter 10)**

LIP Section 10.3 requires that shoreline and bluff development findings be made if the project is anticipated to result in potentially significant adverse impacts on coastal resources, including public access and shoreline sand supply. The project does not occur on a shoreline or bluff; therefore, the findings of LIP Chapter 10 do not apply.

#### **H. Public Access Ordinance (LIP Chapter 12)**

In accordance with LIP Section 12.6(B)(2), the project is exempt from providing public lateral, vertical, bluff top, trail or recreational access because the project will not impede existing public access ways, and is providing a four foot sidewalk along Civic Center Way as a continuation of the proposed Malibu Pacific Trail identified on the pending LCP Park Land and Trails System Map. This map also identifies unofficial/proposed trail segments along Malibu Canyon Road, Civic Center Way and portions of Cross Creek Road. The pump station facilities at Legacy Park and Malibu Bluffs Park have been sited so as not to affect public or recreational accessways at the parks. The project site does not include any

parcels along the shoreline or a blufftop. The Traffic Control Plan, included in the project and required as a condition of approval, calls for the project to make provisions for pedestrian and bicycle safety during construction, and for worker parking to avoid reducing availability of parking in project areas. The Final EIR evaluated potential impacts to recreation resources in Section 4.13 and determined no significant adverse impacts would occur and no mitigation measures were required. The project complies with LIP Chapter 12.

**I. Land Division (LIP Chapter 15)**

LIP Chapter 15 applies to land divisions. The project does not propose a subdivision of land; therefore, the findings in LIP Chapter 15 do not apply.

**J. Onsite Wastewater Treatment Systems (LIP Chapter 18)**

If approved, LCPA No. 13-002 would require the following four findings to be made for the approval of the Civic Center Wastewater Treatment Facility, in addition to the findings of the LCP sections discussed above. Each new finding is listed below, followed by a discussion of how the project complies.

*Finding J1. The proposed project is designed to serve a capacity of development that does not exceed the amount allowed by the LCP.*

The project proposes a membrane bioreactor system to treat wastewater for reuse as recycled water, or disposal by deep well injection into the lower aquifer of the Malibu Valley Groundwater Basin or percolation into the upper aquifer of Winter Canyon. On July 9, 2014, the City Environmental Health Administrator reviewed and approved the design concept report prepared by RMC for the subject Phase 1 project CDP and all supporting materials for design of all phases of the project through buildout. The design capacity of treatment facility is based on buildout conditions calculated based on the City's General Plan and LCP, existing discharge records for other permitted treatment systems in the Civic Center area, and applications on file with the City. The capacity also includes a factor of safety and redundancy based on industry standards and operational needs to account for maintenance and repairs to system components. Therefore, the project is designed to serve a capacity of development that does not exceed that allowed by the LCP.

*Finding J2. The proposed project is consistent with regulatory requirements of the City of Malibu and applicable agencies, including but not limited to, the Regional Water Quality Control Board.*

As discussed above, the project is consistent with the LCP. In addition, the treatment facility has been designed to meet the waste discharge requirements (WDR) established by the LARWQCB, which would consider water quality objectives established in the Basin Plan and Ocean Plan (i.e., the statewide water quality control plan that established policies and standards involving marine waters), recycled water treatment objectives set forth in Title 22 of the California Code of Regulations, and the Total Maximum Daily Load (TMDL) for nutrients that has been established for Malibu Creek and Malibu Lagoon. The WDR will also include water quality monitoring and testing requirements to meet requirements of the Prohibition as well as the regulations mentioned herein.

The project will bring wastewater collection and recycled water distribution pipelines to the property line of individual parcels. Individual property owners will be responsible for the improvements needed on their particular parcel to connect to the system. The City Environmental Health Administrator and Building Safety Division will design a septic decommissioning program that specifies the connection requirements. These requirements will follow the standards of the Malibu Plumbing Code and RMC's design specifications to ensure the wastewater treatment facility will operate as designed. Examples of property owner requirements include, but are not limited to:

- Making a water-tight connection so that water from surrounding soils is not able to infiltrate pipes and artificially increase inflows to the treatment facility; and
- Not using water softeners, which contain excess salts that would undermine the treatment capabilities of the system to meet permitting requirements.

The project and its implementation will be consistent with all regulatory requirements.

*Finding J3. The project, including any proposed new or modified method of effluent disposal, is consistent with policies requiring protection of marine resources, riparian habitat and water quality.*

The proposed collection and distribution systems would distribute Title 22 disinfected effluent (recycled water) from the wastewater treatment facility to various land uses for reuse purposes as well as to groundwater injection wells for protection against seawater intrusion. As indicated in Section 4.7 (Hydrology and Water Quality) of the Final EIR and supported by the Water Quality Supporting Documents of Appendix G, no significant impacts on groundwater and surface water, including the ocean, would occur.

The project will not result in any significant impacts to stream or riparian habitats and all construction would be more than 100 feet from these ESHA areas, with the exception of one small area on the treatment plant site where paving will be added to the existing dirt driveway just inside the 100 foot ESHA buffer and an infiltration area to receive and treat driveway runoff. The treatment plant site and grading plan have been designed so that stormwater runoff from roofs, gutters and all other site surfaces will be routed to designated sump locations and returned to the headworks for treatment prior to leaving the property through existing storm drains. This design also ensures that in the unlikely event of a spill, nothing flows off the site.

Standard conditions of approval are identified to be implemented during construction and operation, including requiring that a final grading and drainage plan be approved prior to issuance of grading permits. The plan must include stormwater management to mitigate increased runoff associated with site development, a stormwater pollution prevention plan and a wet weather erosion and sediment control plan. A water quality mitigation plan is required that will include installation and maintenance of permanent site design and source control stormwater management best management practices (BMPs) to meet the City's requirements of the City's current Municipal Separate Storm Sewer System (MS4) permit.

The project, including any proposed new or modified method of effluent disposal, is consistent with policies requiring protection of marine resources, riparian habitat and water quality.

**K. Conditional Use Permit (M.M.C. Section 17.66.080)**

*Finding K1. The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.*

Pursuant to the proposed LCP and zoning text amendments, the proposed Civic Center Wastewater Treatment Facility is a public utility facility that is a conditionally permitted use in the CV-1, CV-2 and POS zoning districts where facilities would be placed. The project has been conditioned to comply with all applicable provisions of the M.M.C.

*Finding K2. The proposed use would not impair the integrity and character of the zoning district in which it is located.*

According to the General Plan, the CV designation (CV-1 and CV-2) “provides for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting,” while the POS zone “provides for publicly owned land which is dedicated to recreation or preservation of the City’s natural resources.”

In order to ensure the proposed use would not impair the integrity and character of these zones, the LCPA and corollary ZTA included with the project create the Civic Center Wastewater Treatment Facility (CCWTF) Overlay District, and establish development standards for the project. The Overlay is designed to apply to and allow for the CWTF project only, not to other public utility facility projects in general. As such, there is no risk that other parcels zoned CV-1, CV-2 or POS would be used for other public utility facility uses in the future in a manner that would impair the integrity and character of the zones.

The proposed treatment plant site is currently in use for a private package wastewater treatment plant that serves the Malibu Colony Plaza shopping center and several other existing buildings. As such, it is unlikely that the plant site would be used for a visitor-serving use in the future. Therefore, the proposed project will not impair the integrity of the CV-2 zone, or the inventory of lands available for visitor-serving uses.

The proposed pump station facilities will have a small overall footprint at Legacy Park and Bluffs Park that will not interfere with recreational uses and biological resource purposes of the parks. The proposed code amendments includes development standards to require the pump station facilities to be sited and designed not to impair the integrity and character of the CV-1 and POS zone. Per the development standards, the facilities are underground and/or in disturbed areas to avoid environmentally sensitive habitat area, trails, and public recreational areas, and incorporate landscape and visual screening.

The proposed public utility facilities of the project comply with the development standards set forth in the code amendments to ensure they will not impair the integrity and character of the zoning districts where they are sited.

*Finding K3. The subject site is physically suitable for the type of land use being proposed.*

The proposed wastewater treatment plant site is a 4.08 acre parcel already in use as a wastewater treatment plant. The treatment plant has been designed to avoid steep slopes and jurisdictional wetland areas, and has been designed to avoid encroachment and removal of the protected native trees onsite, and will mitigate for the impacts to five native trees. Where the development on the treatment plant site cannot provide a full 100 foot buffer from the onsite wetlands, restorative planting of an equal square footage will be incorporated onsite as required by the code amendments.

The proposed locations were determined to be located in geologically feasible locations and outside of the 100-year floodplain, except for the Legacy Park pump station. However, the existing detention pond on the site is expected to provide adequate capacity to address the potential for onsite flooding, and above-ground features, such as vents, an electrical panel, transformer and backup generator, will be mounted on concrete pedestals at elevations above the anticipated flood level. The proposed facilities have received conformance review and approval from the City Public Works Department, City Biologist, City Environmental Health Administrator, City Geologist and Los Angeles County Fire Department. The site is physically suitable for the proposed development.

*Finding K4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.*

The treatment plant site is already in use as a wastewater treatment facility which will be disconnected once the proposed project is completed. The proposed project has been designed to allow the onsite plant to continue to serve the Malibu Colony Plaza shopping center and other connected uses until they can be hooked up to the new treatment facility. In addition, an existing buried treatment tank and seepage pits will be reused in conjunction with the new treatment plant. The pump stations at Legacy Park and Bluffs Park are sited and designed to be located in existing disturbed areas that do not interfere with existing park use, public access or ESHA. As such, the proposed project is designed to be compatible with onsite uses.

There are multi-family residential properties located to the north of the proposed treatment plant site, and institutional uses (Webster Elementary and Our Lady of Malibu Church and School) located to the northwest. A Los Angeles County-operated package wastewater treatment plant that serves the multi-family development is located across Civic Center Way from the proposed treatment plant site. Adjacent to the west is a large vacant parcel currently proposed for development as the Rancho Malibu Hotel project.

The project will result in noise impacts during construction and periodic testing, but these will be temporary and mitigated as much as feasible. The project will comply with the City's Noise Ordinance (M.M.C. Chapter 8.24) which limits construction hours to 7 a.m. to 7 p.m. on weekdays, 8 a.m. to 5 p.m. on Saturday, and prohibits construction on Sundays and City holidays. Construction traffic will be controlled by a traffic control plan that will be required to be reviewed and approved by the City prior to permit issuance. The traffic control plan will include, among other things, limits on construction delivery hours to avoid conflicts with student arrival and departure and provisions for maintaining pedestrian and bicycle safety, such as special conditions to ensure safety at the crosswalk on Civic Center Way at the proposed treatment plant site.



Operation of the treatment plant (Phase 1) will require two full-time employees. Trips associated with the operation of the plant include two trips per day by employees of the facility, one truck per day for solids removal, four truck trips per week for screening/grit pickup and chemical deliveries, plus an additional four to six trips of the course of a year for routing inspection and maintenance. This level of trips will not interfere with surrounding uses. Noise generating facilities will be located underground or within enclosed buildings with noise attenuating features. All treatment processes will be fully odor-scrubbed to avoid odor releases to the environment.

The project has been sensitively designed to be aesthetically compatible with the surrounding neighborhood by siting facilities underground as much as possible, incorporating a neutral rural style into onsite buildings and enclosures, and providing extensive landscape screening to hide above-ground equipment and treatment plant buildings as much as possible.

*Finding K5. The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.*

The proposed facilities will be compatible with the CV-1, CV-2 and POS zones due to the development standards provided in the overlay district, as well as the design features of the project to locate as many facilities below ground as possible, to site development in disturbed areas, to provide landscape screening, covered and/or enclosed facilities, noise abatement and odor scrubbing. Without these features, the proposed treatment plant use would not be compatible with the multifamily and institutional land use districts north of the treatment plant site, and the pump stations facilities would not be compatible POS and CV-1 zoning districts of the existing park facilities.

Furthermore, the proposed facility (Phase 1) will replace two aging treatment systems (the existing system on the proposed treatment plant site and the existing system serving Our Lady of Malibu School) that have chronic odor and other complaints, allowing properties in the Phase 1 project area to connect to a modern, safe, reliable treatment facility that will be monitored and maintained 24 hours a day, seven days a week.

*Finding K6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the project does not affect solar access or adversely impact existing public and private views, as defined by the staff.*

Beyond onsite restroom and lab processes, no potable water is used in the operation of the treatment plant. The 2010 Los Angeles County Waterworks District No. 29 Urban Water Management Plan indicates District No. 29 will have adequate water supply to meet City demands through 2035. In addition, the proposed project will help reduce demand for potable water by providing a source of Title 22 treated recycled water that can be used instead of potable water in the project service area for uses such as irrigation and toilet flushing.

Operation of the proposed project can be accommodated by the permitted capacity of existing disposal facilities, such as the Calabasas landfill and Hyperion Treatment Plant. The proposed project will include construction of minor drainage improvements on and nearby the treatment plant site, including

grading the site to route all stormwater runoff to centralized collection points for processing in the project's headworks, and construction of a curb and gutter sidewalk along the treatment plant site that will direct flows to an existing inlet on Civic Center Way. Operation of the treatment facility will consume electricity and natural gas on a daily basis; however, the increase in energy usage from the project will not exceed local or regional supplies. The project is not expected to impact existing service levels of the Los Angeles County Fire Department (LACFD) and Los Angeles County Sheriff.

Therefore, there will be adequate provisions for water, sanitation, public utilities and services to ensure the proposed use would not be detrimental to public health and safety.

*Finding K7. The project does not affect solar access or adversely impact existing public and private views, as defined by staff.*

The elevation of the treatment plant site is below the level of surrounding properties and no adverse impacts to solar access or private primary views will result from the project. While facilities have been sited underground as much as feasible, some facilities on the site will be visible from PCH and Malibu Canyon Road (scenic road under the LCP), and from Civic Center Way, which is where a future alignment of the Malibu Pacific Trail has been proposed in the pending LCP Park Land and Trails System Map. Some facilities will also be visible to residential properties across Civic Center Way. The highest structure on the treatment plant site will be the membrane bioreactor canopy roof, with a height of 25 feet. Some of the pump station facilities in Malibu Bluffs Park and Legacy Park will also be aboveground and visible to park users, ranging in height from 3 feet to 8.5 feet high.

As discussed earlier, the project design includes extensive landscape screening to block views of equipment and structures from scenic and residential areas, and will incorporate colors and materials compatible with the surrounding environment as required by the LCP to minimize any adverse visual impacts. The project is expected to improve the existing appearance of the treatment plant site as existing facilities include no visual screening, either from plantings or architectural covering/enclosure, and the site is not landscaped. Lighting for the proposed treatment facility will be dark-sky compliant and limited to the minimum necessary for safety and security. The project will not affect solar access or adversely impact existing public or private views.

*Finding K8. There would be adequate provisions for public access to serve the subject proposal.*

The treatment plant site will be gated and fenced for security reasons and will not be accessible to the public. The treatment plant property fronts on Civic Center Way and will be served by one existing curb cut and one new curb cut to be constructed in the northwestern portion of the frontage, connected by new paved driveway which overlays the existing dirt driveway as much as possible. The driveway design takes into consideration the existing traffic light, crosswalk, bus stop and existing driveways and streets across Civic Center Way. The driveway will have a paved width of 26 feet as required to comply with LACFD access requirements. Six regular parking spaces and one American with Disability Act-compliant parking space are provided on the site. The project provides adequate provisions for public access.

*Finding K9. The proposed use is consistent with the goals, objectives, policies, and general land uses*

*of the General Plan.*

The proposed project is consistent with the goals, objectives, policies of the General Plan in that it would capture and treat wastewater flows that are currently degrading the groundwater basin and nearshore surface waters, like Malibu Creek and Lagoon, with highly advanced treatment technology far more effective than existing private onsite wastewater disposal systems. This function supports the intent of the General Plan to protect biological, recreational and groundwater resources. The development standards included with the code amendments for the overlay district set forth requirements that ensure the project avoids environmental impacts to the greatest extent feasible, and minimizes and offsets potential impacts with restorative onsite habitat planting and a tree protection plan with mitigation for loss of five protected California black walnut trees.

*Finding K10. The proposed project complies with all applicable requirements of state and local law.*

The project has been designed to meet the requirements of state law as provided in the prohibition established by the Water Boards. Furthermore, the project will comply with state and local law because in addition to local grading and building permits, the project requires a coastal development permit in compliance with Malibu's certified LCP, as well as California Coastal Commission certification of the LCPA. Furthermore, the project will be required to obtain SWRCB approval for Water Recycling Requirements/Waste Discharge Requirements (WRR/WDR) and LARWQCB approval for a General WDR. A California Department of Public Health approval of a Title 22 Engineer's Report and an underground injection control permit from the U.S. Environmental Protection Agency are also required. The project will obtain all required state and local approvals prior to construction. During operation, the project will comply with all surface and groundwater quality monitoring requirements as established in the WRR/WDR permits and the MOU.

*Finding K11. The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.*

The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare. By meeting the requirements of the City's MOU, the project will provide a mechanism for property owners to comply with the Prohibition. In the absence of the project, property owners in Phase 1 of the Prohibition Area will be required to cease onsite discharges from existing septic systems by the deadline established in the MOU or face potential individual property owner penalties as may be enforced by the Water Boards.

All staff involved in operation of the treatment plant will be required to hold and maintain wastewater treatment plant certifications with the SWRCB. Project operation and maintenance will include system-wide proactive, preventive and corrective maintenance. The system would be maintained to protect the quality of water in the system, to minimize replacement costs of equipment, minimize the potential for leaks, breaks overflows, maintain injection/percolation capacity and other situations that would affect the health and safety of the staff, customers and the public.

*Finding K12. If the project is located in an area determined by the City to be at risk from earth movement, flooding or liquefaction, there is clear and compelling evidence that the proposed*

*development is not at risk from these hazards.*

All components of the project, both on and off of the treatment plant site, will be constructed in accordance with the project geotechnical consultant recommendations to ensure it will be safe from earth movement and liquefaction hazards. Redundancy and safety features, such as backup pumps and generators, are built in to the project to increase reliability in the event of seismic or other events. Also, project operating protocols will include personnel training for appropriate response actions following a seismic event. These protocols will include required notification procedures, plant operation modifications, and inspection requirements. The facilities are located outside of the 100 year flood zone, except for the Legacy Park pump station; however, as noted in Finding C, the existing detention pond on the site is expected to provide adequate capacity to address onsite flooding, and above-ground features will be mounted above flood elevations. With the implementation of geotechnical consultant and engineering design recommendations, training and protocols, the proposed development will not be at risk from these hazards.

#### Section 11. Conditions of Approval

Based on the foregoing findings and evidence contained within the record, the City Council hereby certifies Environmental Impact Report No. 13-001, adopts the Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations, and approves Coastal Development Permit No. 13-057 and Conditional Use Permit No. 13-005, subject to the following conditions:

##### Standard Conditions

1. The applicants and property owners, and their successors in interest, shall indemnify, defend and hold harmless the City of Malibu and its elected and appointed officials, officers, employees and agents from and against any and all claims, actions, proceedings, liabilities and costs brought against the City and its elected and appointed officials, officers, employees and agents relating to the City's actions concerning this project, including but not limited to any proceeding under CEQA. This indemnification shall include (without limitation) damages, fees, and/or costs awarded against the City, cost of suit, attorney's fees, and any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and the property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project and the City's costs, fees, and damages that it incurs in enforcing the indemnification provisions set forth in this section.
2. The scope of work approved includes construction of Phase 1 of the Civic Center Wastewater Treatment Facility project to provide tertiary treated, Title 22 recycled water for reuse and/or injection into the Civic Center Gravels of the Malibu Valley Groundwater Basin or percolation into the Winter Canyon groundwater system as follows:

##### Treatment Plant Site

- a. Removal of existing onsite wastewater treatment facilities (after its existing flows are connected to the new treatment plant), except for an underground 50,000 gallon

- treatment tank and existing seepage pits that will be reused
- b. Relocation of utilities, as needed
  - c. Grading and site preparation
  - d. Construction of above-ground facilities (square footages are approximate; heights may vary but shall not exceed 28 feet), including:
    - i. Headworks facility building (2,140 square feet, 18-21 feet high)
    - ii. Operations/lab controls building (1,502 square feet, 15-16 feet high, housing employees for plant operation and water quality testing)
    - iii. Membrane bioreactor blower and electrical building (910 square feet, 15-16 feet high)
    - iv. Solids blower building (389 square feet, 15-16 feet high)
    - v. Canopy-covered pair of below-grade membrane bioreactors and filtration equipment (1,989 square foot canopy footprint, 23-25 feet high, covering a maintenance crane and below-grade bioreactor tanks)
    - vi. Secure, roofed, 248 square foot chemical area 11-12 feet high, walled on three sides and gated on the fourth with an adjacent uncovered 14 to 15 foot high storage tank
    - vii. Standby generators, transformers and other equipment
    - viii. 6 foot tall wire mesh fencing that can accommodate plantings for screening and driveway gates
    - ix. Security lighting that is dark-sky compliant.
    - x. Landscaping, fuel modification and onsite restorative planting
  - e. Construction of at-grade and below-ground facilities, including:
    - i. New 26-foot wide, all-weather surface driveway, parking and turnouts
    - ii. Sidewalk along Civic Center Way
    - iii. Various ultraviolet and other treatment and storage tanks
    - iv. Piping, odor control beds, electrical, pumping and other ancillary equipment
    - v. Three percolation ponds approximately 3 to 4 feet deep, approximately 25 wide and 110 feet long

#### Legacy Park and Malibu Bluffs Park Pump Stations

- f. Construction of one pump station at each park, located underground, and ancillary equipment, such as backup generators and transformers, sited above-ground in storage cabinets, screened by native plantings, with all equipment sited in paved or disturbed areas as much as feasible.

#### Pipelines

- g. Construction of Phase 1 wastewater collection and recycled water distribution pipelines, approximately 3.9 miles in length, to be located underground, typically within the same trench and generally beneath public rights-of-way or within easements.

#### Injection Wells

- h. Installation of three injection wells on the north side of Malibu Road in the right-of-way, about 400 feet apart, with each well approximately 150 feet deep, and above-

ground well head facilities placed in mesh cages measuring approximately 12 feet wide by 26 feet long by 6 feet high, screened with landscaping or other design work.

Conditional Use Permit No. 13-005

- i. Conditional approval for public utility facility uses associated with the Civic Center Wastewater Treatment Facility project in the CV-1, CV-2 and POS zones as described and conditioned herein.
3. Subsequent submittals for this project shall be in substantial compliance with the plans on file, dated **September 9, 2014** (CDP Site Plan) and **April 1, 2014** (Construction Drawings) with the Planning Department. The project shall comply with all conditions of approval stipulated in the referral sheets attached to the agenda report for this project. In the event the project plans conflict with any condition of approval, the condition shall take precedence.
4. Pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Department within 10 days of the City Council's approval of the resolution and/or prior to issuance of any development permits.
5. The property owner / applicant or their successor shall submit three (3) complete sets of plans to the Planning Department for consistency review and approval prior to the issuance of any building or development permits.
6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City Environmental Sustainability Department for plan check, and the City Public Works Department for an encroachment permit (as applicable).
7. The CDP shall be null and void if the project has not commenced within three (3) years after issuance of the permit. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request.
8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
9. All structures shall conform to requirements of the City Environmental Sustainability Department, City Geologist, City Environmental Health Administrator, City Biologist, City Coastal Engineer, City Public Works Department, Los Angeles County Waterworks District No. 29 and the Los Angeles County Fire Department (LACFD), as applicable. Notwithstanding this review, all required permits shall be secured.
10. Minor changes to the approved plans or the conditions of approval may be approved by the

Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code (M.M.C.) and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void. In addition, this permit shall not become effective until the CCC certifies LCPA No. 13-002.
12. Any building or demolition permits issued for work commenced or completed without the benefit of required permits are subject to appropriate "Investigation Fees" as required in the Building Code.

*Project-Specific Conditions*

13. The property owner / applicant or successor shall implement all mitigation measures that are specified in Environmental Impact Report No. 13-001 pursuant to the MMRP included as Exhibit A to this resolution which are applicable to this Phase 1 CDP.
14. The applicant shall obtain all required permits from responsible agencies.
15. Pipelines and ancillary infrastructure, such as but not limited to, pump stations, generators and wells not located on the treatment plant site, shall be located underground whenever feasible and/or in disturbed areas as much as possible, especially under existing paving, to avoid ESHA, native trees, trails, public recreational use areas (such as within parks), and visual impacts.
16. For pipelines and ancillary infrastructure, such as but not limited to, pump stations, generators and wells not located on the treatment plant site, any temporary impacts to ESHA from excavation, trenching or other construction disturbance shall be fully restored. Permanent impacts to or loss of ESHA shall be offset by payment of an in lieu fee in accordance with LIP Section 4.8.1(C). The applicant shall provide a preliminary calculation of any impact areas for review and approval by the City Biologist as part of the CDP application and a final calculation prior to issuance of a grading permit for the development affecting the ESHA resources.
17. Gates, fencing and walls shall comply with LIP Section 3.4.4.
18. Structures and equipment shall be designed to minimize visual impacts using methods including, but not limited to: locating development below ground level where possible; utilizing landscape screening to soften views of the development and allow it to blend with the surrounding environment; and incorporating design measures like walls, fencing, and building and lighting orientations that help to contain operational sounds and odors, screen site development from nearby properties and public viewing areas, and avoid offsite light spill.

19. The build out design capacity of the CCWTF, including all phases, shall not exceed the amount of development allowed by the LCP.
20. Prior to allowing connections to the Civic Center Wastewater Treatment Facility, the City shall develop and implement OWTS decommissioning plan and wastewater connection program designed in accordance with LARWQCB and Uniform Plumbing Code requirements and which sets forth procedures and requirements for the disposition of existing onsite wastewater treatment systems and connection to the treatment facility.
21. The property owner / applicant or their successor shall obtain an encroachment permit from Caltrans prior to commencement of any work within the Pacific Coast Highway public right-of-way.

#### *Cultural Resources*

22. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in M.M.C. Section 17.54.040(D)(4)(b) shall be followed.
23. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

#### *Construction and Demolition*

24. The property owner / applicant or their successor shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: Asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall. Prior to the issuance of a building/demolition permit, a Waste Reduction and Recycling Plan (WRRP) shall be submitted to the Environmental Sustainability Department for review and approval. The WRRP shall indicate means and measures for a minimum of 50 percent diversion goal.
25. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.
26. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as



feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires will be rinsed off prior to leaving the property.

#### *Colors and Materials*

27. New development in scenic areas visible from scenic roads or public viewing areas shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
  - a. Colors shall be compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones.
  - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
  - c. All windows shall be comprised of non-glare glass.
28. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. The color shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.
29. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color and material of all retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

#### *Lighting*

30. Night lighting from exterior and interior sources shall be minimized to that necessary for public safety. All exterior lighting shall be dark sky compliant and shall avoid lighting of natural habitat areas.

#### *Biology/Landscaping*

31. The City shall obtain any and all state and federal regulatory agency permits/agreements for any portion of the project (including infrastructure) should final project plans indicate that development may encroach into any of those agencies' jurisdiction.
32. All landscape plantings shall be limited to species native to the Santa Monica Mountains.
33. Invasive plant species, as determined by the City of Malibu, are prohibited.
34. Prior to final plan check approval of grading plans, the applicant shall provide an area calculation of the impacted area occurring with the 100-foot wetland ESHA buffer. The landscape plans shall then be amended to incorporate an equivalent area of native planting on the site in an area that is currently disturbed or non-native vegetation, and also comply with final fuel modification plan approval from LACFD.

35. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
36. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six (6) feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.
37. The use of building materials treated with toxic compounds such as copper arsenate shall be prohibited.
38. Grading, excavation or other site preparation activities associated with both the treatment plant and infrastructure shall only be scheduled only during the dry season from April 1 through October 31. If it becomes necessary to conduct these activities from November 1 through March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.
39. Grading, excavation or other site preparation activities associated with both the treatment plant and infrastructure scheduled between February 1 and August 30 will require nesting bird surveys by a qualified biologist prior to initiation of those activities. Surveys shall be completed no more than five days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City Biologist prior to any vegetation removal on site.
40. Construction fencing shall be placed outside of required ESHA limits and native tree protection zones and indicated on the site plans approved for grading permit issuance. Construction fencing shall be installed prior to the beginning of any construction and shall be maintained throughout the construction period to protect the site's sensitive habitat areas.
41. The wastewater treatment facility will require the removal of five and encroachments on three protected California black walnut trees. Pursuant to LIP Chapter 5, projects that support one or more California black walnut (*Juglans californica*) trees must include a native tree protection plan. A native tree protection plan was prepared and submitted for this project and LCPA No. 13-002/ZTA No. 13-008 addresses impacts to protected native trees. Required mitigation shall include mitigation of the native tree protection plan for trees that will have encroachments, but that will not be removed. Prior to issuance of grading permits that affects the protected native trees, the City shall pay the in lieu fee required by LIP Section 5.5.2(b) for tree that are removed.

### *Geology*

42. All recommendations of the consulting Certified Engineering Geologist or Geotechnical Engineer and the City Geotechnical staff (August 20, 2014 review sheet) shall be incorporated

into all final design and construction. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.

43. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading and drainage. Any substantial changes may require amendment of the CDP or a new coastal development permit.

*Public Works*

44. This project proposes to construct improvements within the City's right-of-way. Prior to the Public Works Department's approval of the grading permit, the applicant shall obtain encroachment permits from the Public Works Department for the work within the right-of-way.
45. The proposed driveways within the public right-of-way shall be constructed of either 6 inches of concrete over 4 inches of aggregate base, or 4 inches of asphalt concrete of over 6 inches of aggregate base. The driveways shall be flush with the existing grades with no curbs.
46. The applicant shall install a new 4 foot minimum width sidewalk constructed of 4 inch thick concrete Type 520-C-2000 of Davis Color Yosemite Brown (641). The sidewalk shall be placed on 4 inches of fill with sand equivalent 20 or higher compacted to 90% minimum. The new sidewalk shall be placed along the northern edge of the treatment plant site, adjacent to Civic Center Way. The sidewalk shall have expansion joints at every 60 feet on center with a ¼ inch pre-molded joint filler. Weakened plan joints (score lines) shall be placed every 10 feet on center.
47. The applicant shall place a new curb and gutter along the northern property line adjacent to Civic Center Way. The new curb and gutter shall be Type A2-150(6) per APWA Standard Plans 120-1 of Davis Color Yosemite Brown (641).
48. The applicant shall install three curb ramps on Civic Center Way with truncated domes per APWA standard plans 111-3.
49. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3. A note shall be placed on the project plans to this effect.
50. The Total Grading Yardage Verification Certificate for the treatment plant site shall be provided with or on the cover sheet of the grading plans submitted for the project.
51. Grading permits shall not be issued between November 1 and March 31 each year. Projects approved for grading shall not receive grading permit unless the project can be rough-graded before November 1. A note shall be placed on the plans that addresses this condition.
52. Grading during the rainy season may be permitted to remediate hazardous geologic conditions that endanger public health and safety.

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53. A Grading and Drainage Plan is required, and shall be submitted to the City Public Works Department for review and approval, prior to the issuance of grading permits for the project. The following elements shall be included in this plan:
- a. Public Works Department general notes;
  - b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways);
  - c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
  - d. The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the plan.
  - e. Protected trees shall be highlighted on the grading plan.
  - f. If the property contains rare and endangered species as identified in the Habitat Assessment, the grading plan shall contain a prominent note identifying the areas to be protected and left undisturbed. Fencing of these areas shall be delineated on the grading plan as required by the City Biologist.
  - g. Private storm drain systems shall be shown on the plan. Systems greater than 12 inch diameter shall also have a plan and profile for the system included in the grading plan.
  - h. Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of a grading permit.
54. A digital drawing (AutoCAD) of the project's private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMPs shall be submitted to the Public Works Department prior to issuance of a grading or building permit. The digital drawing shall adequately show all storm drain lines, inlets, outlets, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public or private street and any drainage easements.
55. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu's standard label template. A note shall be placed on the plans that addresses this condition.
56. Prior to the approval of any permits and prior to the applicant submitting the required construction general permit documents to the State Water Resources Control Board, the applicant shall submit to the Public Works Department for review and approval an Erosion and Sedimentation Control Plan (ESCP). The ESCP shall contain appropriate site-specific construction site BMPs and must be developed and certified by a qualified SWPPP developer (QWD). All structural BMPs must be designed by a licensed California Engineer. The ESCP must address the following elements:
- a. Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area.
  - b. Methods used to protect native vegetation and trees.

- c. Sediment/erosion control.
- d. Controls to prevent tracking on and off the site.
- e. Non-stormwater controls.
- f. Material management (delivery and storage).
- g. Spill prevention and control.
- h. Waste management.
- i. Identification of site risk level as identified per the requirements in Appendix 1 of the Construction General Permit.
- j. Landowner must sign the ESCP:

“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to update the ESCP to reflect current conditions, or failing to properly and/or adequately implement the ESCP may result in revocation of grand and/or other permits or other sanctions provided by law.”

57. A State Construction Activity Permit is required for this project due to the disturbance of more than one acre of land for development. Provide a copy of the letter from the State Water Quality Control Board containing the WDID number prior to the issuance of grading or building permits.
58. A stormwater management plan (SWMP) is required for this project. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified with LIP Section 17.3.2(B)(2). The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project (See LIP Section 17, Appendix A). The SWMP shall be reviewed and approved by the Public Works Department prior to issuance of grading or building permits.
59. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City's current Municipal Separate Storm Sewer System (MS4) permit. The following elements shall be included within the WQMP:
- a. Site Design Best Management Practices (BMPs);
  - b. Source Control BMPs;
  - c. Treatment Control BMPs that retain onsite the stormwater quality design volume (SWQDv). Or where it is technically infeasible to retain onsite, the project must biofiltrate 1.5 times the SWQDv that is not retained onsite;

- d. Drainage improvements;
  - e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
  - f. Prior to the issuance of grading or building permits, a copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction; and
  - g. The WQMP shall be submitted to the Building Safety Public Counter and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department's approval of the grading and drainage plan and or building plans. The Public Works Department will tentatively approval the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMPS, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to issuance of the certificate of occupancy.
60. The developer's consulting engineer shall sign the final plans prior to issuance of grading and building permits.

*Fire Safety*

61. The project requires LACFD approval of a Final Fuel Modification Plan prior to the issuance of grading or building permits.
62. The project required LACFD plan review and approval prior to issuance of building permits.

*Water Service*

63. Prior to the issuance of a building permit, the applicant shall submit an updated Will Serve letter from Los Angeles County Waterworks District No. 29 indicating the ability of the property to receive adequate water service.

*Prior to the Issuance of Certificate of Occupancy*

64. Prior to the issuance of the Certificate of Occupancy, the property owner / applicant or their successor shall provide the Environmental Sustainability Department with a Final Waste Reduction and Recycling Report. This report shall designate all materials that were land filled and recycled, broken down into material types. The final report shall be approved by the Environmental Sustainability Department.
65. Prior to final sign off by the Planning Department, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

66. The applicant shall request a final Planning inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this CDP. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.

*Fixed Conditions*

67. This coastal development permit shall run with the land and bind all future owners of the property.
68. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

*Additional Conditions*

69. During project construction activities, the contractor shall follow standard soil sampling procedures and shall report to the City any contaminants identified during testing. Contaminants shall be reported to the public within 30 days.
70. Construction of the Winter Canyon area pipelines shall only occur during Spring, Summer and Winter breaks for Webster Elementary School and Our Lady of Malibu School.
71. Prior to issuance of a certificate of occupancy for the treatment, plant, the City shall work with Santa Monica Malibu Unified School District and Our Lady of Malibu School to develop an emergency evacuation plan.
72. The project shall incorporate a phased plan to remove the eucalyptus trees and replace them with oak trees.
73. Mitigation Measure HM-3 shall be modified to read:

“Prior to construction on the treatment plant site, a geoprobe or other equivalent drilling methodology will be used to conduct a limited soil investigation in the areas around existing seepage pits to the anticipated depths of excavation at the proposed treatment plant site. Soil cores will be collected at pre-identified locations and screened in the field visually and with the use of handheld sampling devices such as photo-ionization detectors (PIDs). As determined in the field, selected soil samples and/or composite soil samples will be collected and delivered to a State-certified analytical laboratory for analysis for volatile organic compounds via EPA Method 8260. Samples will be collected and handled using industry-standard methods for soil sample collection for chemical analysis. The results of the analyses will be published on the City’s website within 30 days of receipt from the laboratory.

During excavation and grading for the proposed Project, the contractor shall observe exposed

soil for visual evidence of contamination and will sample soil stockpiles in the field for volatile organic compounds using a handheld device such as a PID. All observations will be recorded in a daily log book. If visual contamination indicators are observed during excavation or grading activities or significant levels of volatile organic compounds are detected, all work shall stop and an investigation shall be designed and performed to verify the presence and extent of contamination at the site.

A qualified and approved environmental consultant shall perform the review and investigation. Results shall be reviewed and approved by LACFD or the California Department of Toxic Substances Control (DTSC) prior to construction. The investigation shall include collecting samples for laboratory analysis and quantifying contaminant levels within the proposed excavation and surface disturbance areas. Subsurface investigation shall determine appropriate worker protection and hazardous material handling and disposal procedures appropriate for the subject site.

74. During treatment plant operation, periodic testing of emergency power generators associated with pump stations shall not occur when Webster Elementary School and Our Lady of Malibu School are in session.
75. Air quality testing and reporting shall occur on an ongoing basis during treatment plant operations.

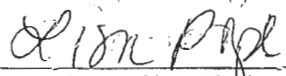
Section 12. Certification.

The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 12<sup>th</sup> day of January 2015.

  
\_\_\_\_\_  
JOHN SIBERT, Mayor

ATTEST:

  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CHRISTI HOGIN, City Attorney

Coastal Commission Appeal - An aggrieved person may appeal the City Council's decision to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at [www.coastal.ca.gov](http://www.coastal.ca.gov) or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling (805)



585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the M.M.C. and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-05 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 12<sup>th</sup> day of January 2015 by the following vote:

AYES: 5 Councilmembers: House, La Monte, Peak, Rosenthal, Sibert  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

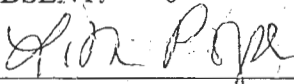
  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

Exhibit A

Mitigation Monitoring and Reporting Plan

The City of Malibu is the lead agency for the Malibu Civic Center Wastewater Treatment Facility (CCWTF) Project. The EIR prepared for the Project provides an analysis of the potential environmental impacts that could result from the proposed project, either during construction or operation. The City of Malibu has found that implementation of the identified mitigation measures would reduce impacts to less-than-significant for all but two potential impacts. Two potential noise impacts were found to be significant and unavoidable impacts, even with mitigation: Noise and Vibration (NV)-1 and NV-4. Both of these impacts would be temporary in nature, occurring during construction and/or emergency testing, and associated mitigation measures would be implemented to reduce impacts as much as feasible.

Mitigation measures for the proposed project are identified in this Mitigation Monitoring and Reporting Plan, and include a total of 17 impacts that require mitigation from one or more of 35 mitigation measures. Section 21081.6 of the California Public Resources Code requires a lead or responsible agency that approves or carries out a project where an EIR has identified measures to mitigate significant environmental effects 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." In accordance with Section 21081.6 of the Public Resources Code, this Mitigation Monitoring and Reporting Plan (MMRP) has been prepared.

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

		Monitoring and Reporting Plan			
Impact No.	Impact Summary	Mitigation Measure (Exact Text)	Implementation and Reporting		
			Responsible Party	Review & Approval	
Mitigation No.	Mitigation Measure (Exact Text)	Responsible Party	Review & Approval	Implementation Schedule	
				Design	Pre-Construction
Mitigation No.	Mitigation Measure (Exact Text)	Responsible Party	Review & Approval	Implementation Schedule	
				Design	Pre-Construction
Mitigation No.	Mitigation Measure (Exact Text)	Responsible Party	Review & Approval	Implementation Schedule	
				Design	Pre-Construction
BIO-1	Substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by CDFW or USFWS				
MM BIO-1	MM BIO-1. To reduce impacts to special-status species and their habitats to a less than significant level, the following avoidance and minimization measures shall be implemented: <ul style="list-style-type: none"> <li>All work areas shall be approved by the Project Engineer in consultation with an approved biologist.</li> <li>No new areas of disturbance for lay down areas, parking, staging, or other support areas shall be developed. Previously disturbed areas will be utilized to support these work zones.</li> <li>Work areas shall be clearly marked in the field to prevent impacts outside of the designated work area.</li> </ul>	City of Malibu Construction Consultant/ Contractor	City of Malibu	1. Confirm that measure is in the construction specifications for the project 2. Project Engineer to sign off on work areas 3. Confirm that no new disturbed areas be created in support of work zones 4. Verify that work areas are clearly marked	1. Pre-Construction 2. During Construction 3. Construction
MM BIO-2	MM BIO-2. The drilling contractor shall prepare a Fraction Mitigation Contingency Plan for the Malibu Creek crossing that would include, at a minimum, the following elements for the protection of biological resources: 1) design protocols shall require a geotechnical engineer or qualified geologist to make recommendations regarding the suitability of the formations to be bored to minimize the potential for the inadvertent release of drilling fluids into the creek; 2) definition of how such releases of drilling fluids would be detected in a timely manner; 3) identification of steps to be implemented in the event of a drilling fluid release; and 4) a reporting protocol to ensure that all appropriate notifications are made to agencies.	City of Malibu Drilling contractor	City of Malibu	1. Confirm that measure is in the design protocols and construction specifications for the project 2. Review and approve Fraction Mitigation Contingency Plan 3. Verify that Malibu Creek Crossing is constructed in compliance with the Fraction Mitigation Contingency Plan	1. Design 2. Pre-Construction 3. Construction
MM BIO-3	MM BIO-3. Within six months of any site preparation, construction, or other site disturbance associated with the Project, a focused bat roost habitat assessment shall be conducted. The assessment shall include the PCH bridge, Cross Creek bridge, and any mature trees occurring within 100 feet of any element of the Project, construction of infrastructure, and trees proposed for removal. The bat maternity season (typically April 1-August 31) shall be avoided to the greatest extent feasible. If the maternity season cannot be avoided, then a focused bat survey, utilizing current ultrasonic technology, shall be conducted by a qualified biologist acceptable to the CDFW and the City. If active maternity roosts are identified, no work will continue in those areas until such time as the City authorizes re-initiation of the	City of Malibu Qualified Biologist	City of Malibu	1. Qualified biologist shall perform a focused bat roost habitat assessment 2. City of Malibu approve construction schedule and timing 3. If necessary, qualified biologist to conduct focused bat survey as specified in this measure 4. City of Malibu to consult with CDFW regarding work near active	1. Pre-Construction 2. During Construction 3. Construction

BIOLOGICAL RESOURCES

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact No.	Impact Summary	Mitigation Measure (Exact Text)	Monitoring and Reporting Plan		
			Implementation and Reporting Party	Monitoring and Reporting Actions	Implementation Schedule
		work in consultation with CDFW.			
MM BIO-4		MM BIO-4. A biological monitor, approved by the City, shall be present for all construction activities within ESHA and activities related to auguring activities at Malibu Creek or any other jurisdictional feature, or placing piping on the PCH bridge over Malibu Creek. Within five days prior to any work being initiated at a work site for the first time, or in the event work is stopped at a given work site for more than five days and is re-initiated, the biological monitor shall complete a preconstruction survey to ensure wildlife species unlikely to escape on their own are not present, ensure that construction is not intruding into any environmentally sensitive areas, and that no special-status biological resources are being impacted. The biological monitor shall track compliance with the EUR biological mitigation measures and any other permit conditions that may pertain to biological resources. The monitor shall keep a daily activity log and provide the daily logs to the City Biologist on a weekly basis. Any and all violations or notable events shall be reported to the City immediately.	City of Malibu Biological monitor	<p>5. City of Malibu to approve re-initiation of work in such areas</p> <p>1. Conduct biological monitoring</p> <p>2. Confirm that biological monitoring has occurred</p> <p>3. Review biological monitoring logs on a weekly basis</p>	<p>1. Pre-Construction</p> <p>2. During Construction</p>
MM BIO-5		MM BIO-5. Construction activities shall avoid the nesting season for birds, generally accepted to be February 1 (January 1 for regions) through September 15. Should avoidance be infeasible, beginning 30 days prior to construction, a qualified biologist, approved by the City, shall conduct weekly surveys for nesting birds in all work zones and a 500 foot buffer area, with the final survey being no less than five days from the start of construction if there is a delay of more than five days between when the nesting bird survey is performed and vegetation removal or other construction begins; it will be necessary to reconfirm whether any new nesting has occurred between the first nesting bird survey was performed and ground disturbance. Standard buffers for active nests are 300 feet for passerine species and 500 feet for raptors. If an active nest is identified, an appropriate buffer will be established, as determined by a qualified biologist, in consultation with CDFW, based on the sensitivity of the species and the nature of the construction activity. The contractor will be notified of active nests and directed to avoid any activities within the buffer zone until the nests are no longer considered to be active by the	City of Malibu Qualified Biologist	<p>1. Confirm that weekly bird surveys were conducted in the 30 days prior to construction if construction occurs during nesting season</p> <p>2. Confirm that bird survey was completed if construction is delayed as described in this measure</p> <p>3. Confirm that appropriate buffers are established and clearly marked if active nests are found</p> <p>4. Confirm and maintain record of notification to contractor of active nest</p>	<p>1. Pre-Construction</p> <p>2. During Construction</p>

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact No.	Impact Summary	Mitigation Measure (Exact Text)	Monitoring and Reporting Plan			Implementation Schedule Design Pre-Construction During Construction Operation
			Responsible Party	Review & Approval	Monitoring and Reporting Actions	
		qualified biologist.			status and avoidance requirements	
MM BIO-6		MM BIO-6. Any work resulting in materials that could potentially be discharged into jurisdictional features will adhere to strict BMPs and the requirements set forth in regulatory agency (ACOE, RWQCB, or CDFW) permits/agreements to prevent potential pollutants from entering any jurisdictional feature. Applicable BMPs to be applied will be included in SWPPP and/or WQMP. At a minimum, barriers (screw piles or sedimentation fences) will be erected between the construction site or bore sites and Winter Canyon Creek and Malibu Creek prior to construction or drilling, as appropriate, to prevent released material from reaching Winter Canyon Creek or Malibu Creek and associated habitats.	City of Malibu Construction Consultants/ Contractor	City of Malibu	1. Verify that work is consistent with the project's SWPPP and/or WQMP	1. During Construction
MM BIO-7		MM BIO-7. To the extent feasible, all trees that must be removed to enable construction of facilities shall be removed outside the breeding seasons for birds and bats. The City will retain a tree removal specialist to remove all trees during times when birds and bats are not breeding. In order to further minimize impacts to potentially occurring bats, a two-step process for removal of any tree that cannot be avoided shall be implemented. This will involve removing all branches less than two inches in diameter from trees that will be removed, to create a disturbance that will encourage bats to choose another roosting site after foraging for that night. The following day the tree would be completely removed.	City of Malibu	City of Malibu	1. Confirm that trees are removed only outside bird and bat breeding season 2. Confirm that tree removal occurs consistent with MM BIO-3 and MM BIO-4, above	1. Pre-Construction 2. During Construction
MM BIO-17		MM BIO-17. All construction activities that occur within 100 feet of an ESHA will be evaluated by a biologist to determine if biological monitoring of the construction activity is warranted. Biological construction monitoring would occur as needed to ensure that no direct or indirect impacts to ESHAs occur. At a minimum, a daily monitoring log would be prepared documenting construction compliance with the biological EIR mitigation measures, and any other subsequent measures that may be added.	City of Malibu Biological monitor	City of Malibu	1. Confirm measure is incorporated into project specifications 2. Identify areas where work will occur within, adjacent to, or within 100 feet of an ESHA 3. Verify presence of biological monitor as consistent with this measure 4. Verify daily monitoring log	1. During Construction

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact Summary		Mitigation Measure (Exact Text)	Responsible Party	Review & Approval	Monitoring and Reporting Actions	Implementation Schedule • Design • Pre-Construction • During Construction • Operation
BIO-2	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or USFWS.	Refer to MM BIO-1, MM BIO-2, MM BIO-4, MM BIO-6, and MM BIO-17, above.			5. Confirm that any additional mitigation measures are implemented as appropriate	
BIO-3	Substantial adverse effect on federally protected wetlands through direct removal, filling, hydrological interruption, or other means.	Refer to MM BIO-1, MM BIO-2, MM BIO-4, MM BIO-6, and MM BIO-17, above.				
BIO-4	Interfere substantially with movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.	Refer to MM BIO-1, MM BIO-2, MM BIO-4, MM BIO-6, MM BIO-7 and MM BIO-17, above.				
BIO-5	Conflict with any local policies or ordinances protecting biological resources.	Refer to MM BIO-4, MM BIO-7 and MM BIO-17 above	City of Malibu	City of Malibu	1. Confirm that trees are removed only outside bird and bat breeding season 2. Confirm that tree removal occurs consistent with MM BIO-3 and MM BIO-4, above	1. Pre-Construction 2. During Construction
		MM BIO-8. To ensure that potential temporary impacts will not affect the health of trees that remain on-site, the following shall be implemented, as applicable: <ul style="list-style-type: none"> <li>• Drainage shall be directed away from the root zones of all native trees.</li> <li>• Poisonous chemicals or materials that could be deleterious to tree health shall be discarded in approved storage containers.</li> <li>• Tree trunks shall not be used as winch supports, anchors, or</li> </ul>	City of Malibu Contractor	City of Malibu	1. Confirm that measure is incorporated in specifications for the project 2. Identify native trees and their root zones within project area 3. Confirm measures are implemented to direct drainage away from	1. Pre-Construction 2. During Construction

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact Summary		Monitoring and Reporting Plan			
Impact No.	Mitigation No.	Mitigation Measure (Exact Text)	Implementation and Reporting	Responsible Party	Review & Approval
					Implementation Schedule Design Pre-Construction Construction Operation
		<p>signposts or for any other function.</p> <ul style="list-style-type: none"> <li>The storage of vehicles, building materials, refuse, or excavated soil materials shall not occur within the protected zones of trees.</li> <li>The use, access, or parking of heavy vehicles or equipment (e.g., backhoes, tractors) shall not occur within the protected zones of trees.</li> </ul>			
	MM BIO-9	<p>MM BIO-9. Prior to construction along the pipeline alignment and in collection and distribution system areas, a qualified biologist or arborist shall conduct a focused native tree survey in these areas to determine if there are any other protected native trees within the direct impact area. If it is apparent that any protected native trees not previously identified would require removal, these trees shall be reported to the City, and all mitigation measures in the tree protection plan shall be implemented for these trees pursuant to LIP Chapter 5.</p>	City of Malibu Biologist or Arborist	City of Malibu	<p>4. Confirm that construction equipment and materials are stored, handled, and disposed of as required by specifications consistent with this measure</p> <p>1. Confirm native tree survey was completed consistent with this measure</p> <p>2. Confirm that any protected native tree removal occurs consistent with this measure</p> <p>3. Verify that mitigation measures in tree protection plan are implemented</p>
	MM BIO-10	<p>MM BIO-10. Prior to construction, highly visible protective fencing (i.e., Environmentally Sensitive Area fencing) shall be installed around the wastewater treatment facility's limits of disturbance to avoid direct impacts on native trees adjacent to the construction area. In addition, exclusionary fencing shall be installed around the outermost limits of the tree protection zones (i.e., five feet outside of the drip line or 15 feet from the trunk, whichever is greater) of live native trees within or adjacent to the construction area that will not be removed but have the potential to be disturbed during construction or grading activities. All tree fencing shall be supervised by a qualified biologist or arborist prior to the commencement of any clearing, grading, or other construction activities. Fencing shall be maintained in place for the duration of all construction. No construction, grading, staging, or material storage shall be allowed within the fenced exclusion areas or within the protected zones of any native trees. This includes around any native trees (if present) potentially occurring within the collection and distribution system areas.</p>	City of Malibu Biologist or Arborist	City of Malibu	<p>1. Confirm that this measure is incorporated into specifications for project</p> <p>2. Verify that protective fencing is installed consistent with this measure</p> <p>3. Verify that fencing remains intact throughout construction and that disturbance within the fenced area does not occur, consistent with this measure</p>

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact No.	Impact Summary	Mitigation Measure (Exact Text)	Monitoring and Reporting Plan			
			Implementation and Reporting Party	Review & Approval	Monitoring and Reporting Actions	Implementation Schedule Design Pre-Construction During Construction Operation
MM BIO-11		MM BIO-11. Any construction-related activity (e.g., pruning) that encroaches into the tree protection zone of a native tree must be done using only hand-held tools. Prior to encroachment into the tree protection zone, the tree must be inspected by a qualified arborist to ensure that the activity will not result in loss or worsen the health of the tree. This includes around any native trees (if present) potentially occurring within the collection and distribution system areas.	City of Malibu	City of Malibu	<ol style="list-style-type: none"> <li>Confirm that this measure is incorporated into project specifications</li> <li>Confirm that tree inspections have occurred consistent with this measure</li> <li>Verify that construction-related activities that encroach into the tree protection zone of native trees are done with hand-held tools</li> </ol>	<ol style="list-style-type: none"> <li>Pre-Construction</li> <li>During Construction</li> </ol>
MM BIO-12		MM BIO-12. A qualified arborist or biologist shall monitor native trees that are within or adjacent to the construction area. The monitor shall be present during installation of exclusionary fencing and shall ensure that construction personnel or equipment do not encroach into sensitive areas. The monitor shall also oversee work with hand tools in the protected zone and check the exclusionary fencing weekly to ensure that the fencing remains intact during all construction phases of the Project. This includes directing construction personnel when the fencing needs repair or replacement.	City of Malibu Biologist or Arborist	City of Malibu	<ol style="list-style-type: none"> <li>Confirm monitor oversees installation of fencing</li> <li>Confirm monitor oversees work with handtools in the protected zone</li> <li>Confirm monitor checks fencing weekly during construction</li> </ol>	<ol style="list-style-type: none"> <li>Pre-Construction</li> <li>During Construction</li> </ol>
MM BIO-13		MM BIO-13. The proposed wastewater treatment facility design shall avoid removal of and temporary impacts on protected native trees to the maximum extent feasible. If the proposed design does not prevent protected native tree removal or encroachment, then the lowest or least significant impacts shall be selected. Adverse impacts on protected native trees shall be fully mitigated, with priority given to on-site mitigation. The coastal development permit shall include the mitigation requirements as conditions of approval.	City of Malibu	City of Malibu	<ol style="list-style-type: none"> <li>Confirm that design is consistent with measure</li> <li>Confirm coastal development permit incorporates mitigation for native tree impacts</li> </ol>	<ol style="list-style-type: none"> <li>Design</li> <li>Pre-Construction</li> </ol>
MM BIO-14		MM BIO-14. Any California walnut trees that meet the LIP Chapter 5 protection criteria and that are proposed for removal or where development encroaches into the protected zone of the native tree, resulting in loss or worsened health of the tree, shall be replaced on-site (if suitable habitat is present) at a ratio of 10:1. Seedlings (less than 1 year old) shall be planted in an area of the	City of Malibu Contractor	City of Malibu	<ol style="list-style-type: none"> <li>Confirm that measure is incorporated into design and project specifications</li> <li>Confirm that design is consistent with measure</li> </ol>	<ol style="list-style-type: none"> <li>Design</li> <li>Pre-Construction</li> <li>Construction</li> </ol>



Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact No.	Impact Summary	Mitigation Measure (Exact Text)	Implementation and Reporting		Monitoring and Reporting Plan	
			Responsible Party	Review & Approval	Monitoring and Reporting Actions	Implementation Schedule - Design - Pre-Construction - During Construction - Operation
MM BIO-15		<p>proposed wastewater treatment facility site where suitable habitat is present.</p> <p>MM BIO-15. If impacts to protected native trees cannot be feasibly avoided, mitigation shall be provided by one of the following methods pursuant to LIP Sections 5.3 and 5.5, and the Native Tree Protection Plan prepared for the Project (Appendix D):</p> <ul style="list-style-type: none"> <li>Off-Site Mitigation: Planting at least 10 replacement trees for every tree removed (can occur off-site in suitable habitat that is restricted from development or in public parklands). Seedlings (less than 1 year old) shall be planted in an area where there is suitable habitat. OR</li> <li>In-Lieu Fee Program: For unavoidable impacts resulting in the loss of native trees and native tree habitat, payment of an in-lieu fee shall be provided. The fee shall be paid into the Native Tree Impact Mitigation Fund, which is administered by the Santa Monica Mountains Conservancy. The fee shall be based on the type, size, and age of the trees removed.</li> </ul>	City of Malibu	City of Malibu	<p>3. Verify that correct number of seedlings are planted</p> <p>1. Confirm that measure is incorporated into project specifications</p> <p>2. Verify that correct number of seedlings are planted and/or correct fees paid to the Native Tree Impact Mitigation Fund</p>	<p>1. Pre-Construction</p> <p>2. Construction</p>
MM BIO-16		<p>MM BIO-16. Pursuant to LIP Chapter 5, Section 5.6.1, each affected protected tree that is not removed, but encroached upon shall be monitored annually for a period of not less than 10 years. An annual monitoring report shall be submitted for review by the City for each of the 10 years. The monitoring report shall include measurements of the tree (i.e., DBH, approximate height, and canopy width) and the relative health of each of the replacement trees, including notes regarding any damage from fire, disease, insects, or other vectors that affect health. If at any time the health of a replacement tree begins to decline beyond recovery, that tree shall be replaced in kind with an equal healthy replacement.</p> <p>Monitoring reports shall be provided to the City annually and at the conclusion of the 10-year monitoring period to document the success or failure of the mitigation. If performance standards are not met by the end of 10 years, the monitoring period shall be extended until the standards are met. If any of the trees is lost or its health or vigor is worsened as a result of the proposed wastewater treatment facility, the impact shall be mitigated through replanting at a ratio of 10:1 on-site, off-site mitigation, or</p>	City of Malibu	City of Malibu	<p>1. Confirm measure is incorporated into project specifications</p> <p>2. Confirm that monitoring reports are produced yearly for a minimum of 10 years, for not less than a total of 10 annual reports</p> <p>3. Verify that any replacement trees that require further replacement are replaced consistent with this measure</p> <p>4. Confirm that mitigation meets performance measures after 10 years</p> <p>5. If performance measures</p>	<p>1. During Construction</p> <p>2. Operation</p>

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact Summary		Mitigation Measure No.	Mitigation Measure (Exact Text)	Responsible Party	Review & Approval	Monitoring and Reporting Actions	Implementation Schedule Pre-Construction During Construction Operation
AR-1	Create substantial adverse change in the significance of an archaeological resource	MM AR-1	an in-lieu fee (as described above).	City of Malibu	City of Malibu	not met after 10 years, confirm that monitoring, reporting, and mitigation continues as stipulated in this measure	1. During Construction
<b>CULTURAL AND PALEONTOLOGICAL RESOURCES</b>							
AR-1	Create substantial adverse change in the significance of an archaeological resource	MM AR-1	MM AR-1: A certified archaeologist and a culturally-affiliated Native American, with knowledge of cultural resources, shall monitor all initial Project-related ground-disturbing activities in the area of the proposed wastewater treatment facility as well as excavations or other impacts, should they take place, from pipeline construction adjacent to CA-LAN-266, CA-LAN-12715, CA-LAN-1417, or the Humalivo site, CA-LAN-264. Monitoring should take place on both sides of Malibu Lagoon, specifically from Cross Creek Road east to a point on the other side of the Lagoon opposite the western end of the parking lot at Malibu State Beach, west beyond the Adamson House. This area may need to be extended, if significant materials are discovered during monitoring. In those areas that are not monitored by a certified archaeologist and a culturally-affiliated Native American, if buried cultural resources are uncovered during construction, all work shall be halted in the vicinity of the archaeological discovery until a qualified archaeologist can visit the site of discovery and assess the significance of the archaeological resource. Provisions for the disposition of recovered prehistoric artifacts shall be made in consultation with culturally affiliated Native Americans. The Native American Heritage Commission shall be the final arbiter should disagreement arise over the disposition of the recovered artifacts. In the event of an accidental discovery of human remains in a location other than a dedicated cemetery, the steps and procedures specified in Health and Safety Code Section 7050.5, State CEQA Guidelines Section 15064.5(e), and PRC Section 5097.98 shall be implemented.	City of Malibu Native American cultural monitor Archaeologist	City of Malibu	1. Confirm measure is incorporated into project specifications 2. Confirm that any cultural resources uncovered during construction are treated in accordance with recommendations from archaeologists and Native American cultural monitor 3. Confirm that any cultural resources whose treatment is under dispute is treated in accordance with the recommendations of the Native American Heritage Commission 4. Confirm that any human remains are uncovered during construction are handled in accordance with applicable regulations, as proscribed in this measure	1. Pre-Construction
MM AR-2	Pre-excavation borings shall be installed along the proposed pipeline location in Malibu Road adjacent to CA-LAN-1417. A certified archaeologist and a culturally-affiliated Native American, with knowledge of cultural resources, shall monitor the pre-construction investigation and determine if archaeologically significant artifacts are located in the proposed pipeline location and	MM AR-2	MM AR-2: Pre-excavation borings shall be installed along the proposed pipeline location in Malibu Road adjacent to CA-LAN-1417. A certified archaeologist and a culturally-affiliated Native American, with knowledge of cultural resources, shall monitor the pre-construction investigation and determine if archaeologically significant artifacts are located in the proposed pipeline location and	City of Malibu Native American cultural	City of Malibu	1. Confirm that measure is incorporated into project specifications 2. Confirm that a treatment plan is developed if archaeologically	1. Pre-Construction

Monitoring and Reporting Plan

Implementation and Reporting

Mitigation Measure

Mitigation Measure No.

Impact Summary

Mitigation Measure

Mitigation Measure No.

Impact Summary

Mitigation Measure

Mitigation Measure No.

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

		Monitoring and Reporting Plan		
Impact No.	Impact Summary	Mitigation Measure (Exact Text)	Implementation and Reporting Party	Implementation Schedule
Mitigation Measure (Exact Text)	Mitigation Measure (Exact Text)	Mitigation Measure (Exact Text)	Review & Approval	Design Pre-Construction During Construction Operation
		have the potential to be impacted by project construction. Should archaeologically significant artifacts be discovered, all work in the area shall be halted until a treatment plan can be developed and implemented, following which construction would continue.	Archaeologist	
AR-2	Project would disturb human remains	Refer to MM AR-1 and MM AR-2, above.	City of Malibu	
PR-1	Directly or indirectly destroy a unique paleontological resource	MM PR-1: A qualified paleontologic monitor shall be required in any areas where excavation will occur below a depth of 5 feet. The qualified paleontologic monitor shall retain the option to reduce monitoring if, in his or her professional opinion, the sediments being monitored were previously disturbed. Monitoring may also be reduced if the potentially fossiliferous units, previously described, are not present or, if present, are determined by qualified paleontologic personnel to have a low potential for containing fossil resources.  The monitor shall be equipped to salvage fossils and samples of sediments as they are unearthed to avoid construction delays and be empowered to halt or divert equipment temporarily to allow removal of abundant or large specimens. Recovered specimens shall be prepared to a point of identification and permanent preservation, including washing to recover small invertebrates and vertebrates.  Specimens shall be curated into a professional, accredited museum repository with permanent retrievable storage. A report of findings, with an appended itemized inventory of specimens, shall be prepared and submitted to the City. The report and inventory, when submitted to the City, will signify completion of the program to mitigate impacts on paleontological resources.	City of Malibu Paleontologic monitor	1. During Construction  3. Confirm that specimens are curated into a museum repository meeting the requirements stipulated in the measure of findings and inventory of specimens
<b>PALEONTOLOGICAL HAZARDS</b>				
GEO-2	Expose people or structures to potential substantial adverse effects involving hazards due to ground shaking	MM GEO-1: All Project facilities shall be designed to comply with City and state seismic hazard requirements.  MM GEO-2: The Project shall conform to all applicable	City of Malibu	1. Confirm design is consistent with measure  1. Confirm design is

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

		Monitoring and Reporting Plan			
Impact No.	Impact Summary	Mitigation Measure (Exact Text)	Responsible Party	Implementation and Reporting	Implementation Schedule - Design - Pre-Construction - During Construction - Operation
			Malibu	Malibu	consistent with measure
		GEO-2 provisions and guidelines set forth by the Uniform Building Code, which sets forth regulations concerning proper design for seismic safety.	Malibu	Malibu	
		MM GEO-3: Project operating protocols shall include facility personnel training regarding appropriate response actions following a seismic event. These protocols will include required notification procedures, plant operation modifications, and inspection requirements.	City of Malibu	City of Malibu	1. Confirm project operating protocols are consistent with measure
GEO-4	Expose people or structures to potential substantial adverse effects involving hazards due to landslides or slope instability	MM GEO-4: All earthwork and grading shall meet the requirements of State of California building and structural codes and be performed in accordance with the recommendations in the geotechnical investigation conducted for the Project and the Erosion Control Plan required as part of the LARWQCB NPDES permit.	City of Malibu Construction Consultant/ Contractor	City of Malibu	1. Confirm design and project specifications incorporate the recommendations of the geotechnical investigation and Erosion Control Plan 2. Confirm construction occurs in accordance with specifications
		MM GEO-5: The Project shall comply with guidelines in the City's General Plan, LUP, and LIP Chapter 17, such as those related to fill buttressing, the use of retaining walls, drainage control, and the provision of debris basins and setbacks where appropriate.	City of Malibu	City of Malibu	1. Confirm design complies with the guidelines in the City's General Plan, LUP, and LIP Chapter 17
		MM GEO-6: Site preparation and earthwork shall be done in accordance with recommendations in geotechnical reports for the Project including recommendations from Geosytec (2014). This would include performing earthwork in accordance with Section 300 of the most recent approved edition of the Standard Specifications for Public Works Construction and Regional Supplemental Amendments.	City of Malibu Construction Consultant/ Contractor	City of Malibu	1. Confirm design and project specifications incorporate the recommendations in the geotechnical reports for the Project and Section 300 of the Standard Specifications for Public Works Construction and Regional Supplemental Amendments 2. Verify that site preparation and earthwork is done as required in specifications

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact No.	Impact Summary	Mitigation Measure (Exact Text)	Responsible Party	Implementation and Reporting	Monitoring and Reporting Actions	Implementation Schedule - Design - Pre-Construction - During Construction - Operation
MM GEO-7		MM GEO-7: Geotechnical investigations shall be conducted to develop slope stabilization criteria for any pipelines that would be constructed in areas that are prone to landslides. In addition, steep slopes shall be evaluated to determine whether detailed geotechnical investigations should be performed. The geotechnical reports shall be submitted to the City for review and approval of the slope stabilization measures as well as the collection and distribution system pipeline installations included in the Project design. Slope stabilization measures may include soil improvements, buttressing of the slopes, or compaction of trench backfill. In addition, erosion control measures, such as water bars, trench dams, and revegetation, shall be identified in the Project's Erosion Control, Landscaping, and Revegetation Plan.	City of Malibu Construction Consultant/ Contractor	City of Malibu	<ol style="list-style-type: none"> <li>1. Confirm geotechnical investigations are conducted</li> <li>2. Approve slope stabilization measures and collection and distribution system pipeline installations</li> <li>3. Confirm erosion control measures are identified in the Project's Erosion Control, Landscaping, and Revegetation Plan</li> </ol>	<ol style="list-style-type: none"> <li>1. Design</li> </ol>
<b>3.6 HAZARDOUS AND HAZARDOUS MATERIALS</b>						
HM-1	Create a significant hazard through routine transport and use or accidental release of hazardous materials	MM HM-1: An environmental training program shall be established to communicate environmental concerns and appropriate work practices, including spill prevention, emergency response measures, and proper best management practices implementation, to all field personnel associated with construction activities. The training program shall emphasize site-specific physical conditions to improve hazard prevention (e.g., identification of potentially hazardous substances) and shall include a review of all site-specific plans.  A Hazardous Substance Control and Emergency Response Plan shall be prepared by the contractor. This plan shall be submitted to the City along with the grading permit application for each structure or with the encroachment permit application for the construction of pipelines. The plan shall prescribe hazardous materials handling procedures for reducing the potential for a spill during construction and shall include an emergency response program to ensure quick and safe cleanup of accidental spills. Furthermore, the plan shall identify areas where refueling and vehicle maintenance activities and storage of hazardous materials, if any, shall be permitted. These directions and requirements shall also be reiterated in the Project's Storm Water Pollution Prevention Plan (SWPPP).	City of Malibu Contractor	City of Malibu	<ol style="list-style-type: none"> <li>1. Confirm that measure is incorporated into project specifications</li> <li>2. Confirm an environmental training program consistent with this measure is established and implemented</li> <li>3. Confirm all field personnel participate in the training</li> <li>4. Confirm receipt of and compliance with a Hazardous Substance Control and Emergency Response Plan that is consistent with this measure</li> <li>5. Confirm that the requirements and directions of the Hazardous Substance Control and Emergency Response Plan are</li> </ol>	<ol style="list-style-type: none"> <li>1. Design</li> <li>2. Pre-Construction</li> <li>3. During Construction</li> </ol>

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact No.	Impact Summary	Mitigation Measure (Exact Text)	Implementation and Reporting		Monitoring and Reporting Actions		Implementation Schedule - Design - Pre-Construction - During Construction - Operation
			Responsible Party	Review & Approval	Monitoring and Reporting Actions	Implementation Schedule	
MM HM-2		MM HM-2: Oil-absorbent material, tarps, and storage drums shall be used to contain and control any minor releases in construction areas. Emergency spill supplies and equipment shall be kept adjacent to all areas of work and in staging areas, and shall be clearly marked. Detailed information for responding to accidental spills and for handling any resulting hazardous materials shall be provided in the Project's Hazardous Substances Control and Emergency Response Plan.	City of Malibu Contractor	City of Malibu	incorporated into the SWPPP 1. Confirm measure is incorporated into project specifications 2. Verify emergency spill supplies and equipment are kept adjacent to work and staging areas 3. Confirm spill response and handling of hazardous materials is included in the Hazardous Substances Control and Emergency Response Plan	1. Pre-Construction 2. During Construction	
MM HM-3		MM HM-3: See City Council Resolution No. 15-05 Condition of Approval No. 73. During excavation and grading for the proposed Project, the contractor shall observe exposed soil for visual evidence of contamination. If visual contamination indicators are observed during excavation or grading activities, all work shall stop and an investigation shall be designed and performed to verify the presence and extent of contamination at the site. A qualified and approved environmental consultant shall perform the review and investigation. Results shall be reviewed and approved by LACFD or the California Department of Toxic Substances Control (DTSC) prior to construction. The investigation shall include collecting samples for laboratory analysis and quantifying contaminant levels within the proposed excavation and surface disturbance areas. Subsurface investigation shall determine appropriate worker protection and hazardous material handling and disposal procedures appropriate for the subject site.	City of Malibu Contractor Environmental Consultant	City of Malibu	1. Confirm measure is incorporated into the project specifications 2. Confirm any review and investigation regarding contaminated soils is conducted by environmental consultant and in compliance with this measure 3. Confirm review and approval of results by LACFD or the DTSC	1. During Construction	
MM HM-4		MM HM-4: For Project operations, the City shall prepare a Hazardous Materials Business Plan for the wastewater treatment facility that would address handling and storage of all hazardous chemicals that would be used during the treatment process. The plan shall address containment, site layouts, and emergency response and notification procedures for a spill or release.	City of Malibu	City of Malibu	1. Prepare Hazardous Materials Business Plan consistent with this measure	1. Design 2. Pre-Construction 3. Operation	

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact Summary		Mitigation Measure (Exact Text)	Responsible Party	Implementation and Reporting	Monitoring and Reporting Plan	Implementation Schedule
Impact No.	Mitigation No.	Exact Text	Responsible Party	Implementation and Reporting	Monitoring and Reporting Plan	Implementation Schedule
HWQ-6	MM HY-1	Project subject to inundation from seiche, tsunami, or mudflow	City of Malibu	City of Malibu	1. Prepare Tsunami Response Plan consistent with this measure 2. Implement Tsunami Response Plan	1. Design 2. Operation
		MM HY-1: The City will prepare and implement a Tsunami Response Plan for the Project that defines emergency response and coordination procedures. The Tsunami Response Plan shall contain significant information specific to actions that may be necessary related to receipt of a tsunami watch, warning, or as a result of an actual tsunami. The first priority of emergency management response shall be the protection of life and property.	City of Malibu	City of Malibu	1. Prepare Tsunami Response Plan consistent with this measure 2. Implement Tsunami Response Plan	1. Design 2. Operation
NV-1	MM NV-1	Expose persons to or generate noise levels in excess of standards established in a local General Plan or noise ordinance or applicable standards of other agencies	City of Malibu Contractor	City of Malibu Contractor	1. Confirm measure incorporated into project specifications 2. Verify use of appropriate noise-control measures	1. Design 2. Construction
		MM NV-1: The construction contractor shall use appropriate noise-control measures to reduce construction noise levels to the extent feasible. Noise controls could include any of the following, as appropriate: <ul style="list-style-type: none"> <li>Construction hours shall be in compliance with City and County noise ordinances during construction within each respective jurisdictional boundary.</li> <li>Best available noise-control techniques (including mufflers, intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds) shall be used for all equipment and trucks to minimize construction noise impacts.</li> <li>If impact equipment (e.g., jackhammers and pavement breakers) is used during Project construction, hydraulically or electrically powered equipment shall be used wherever feasible to avoid the noise associated with compressed-air exhaust from pneumatically powered tools. However, where the use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used (a muffler can lower noise levels from the exhaust by up to about 10 dBA). External jackets on the tools themselves shall be used, where feasible, which could reduce noise by 5 dBA. Quieter procedures, such as drilling rather than impact equipment, shall be used whenever feasible.</li> <li>Pile holes shall be pre-drilled wherever feasible to reduce potential noise and vibration impacts.</li> <li>Stationary noise sources shall be located as far from sensitive receptors as feasible. If they must be located near</li> </ul>	City of Malibu Contractor	1. Confirm measure incorporated into project specifications 2. Verify use of appropriate noise-control measures	1. Design 2. Construction	

3.7 HYDROLOGY AND WATER QUALITY

3.9 NOISE AND VIBRATION

Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

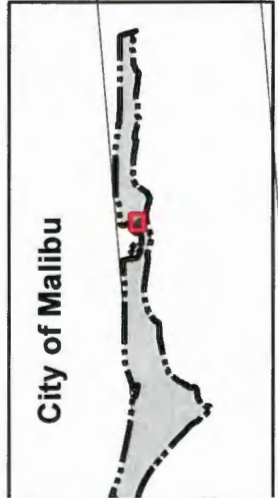
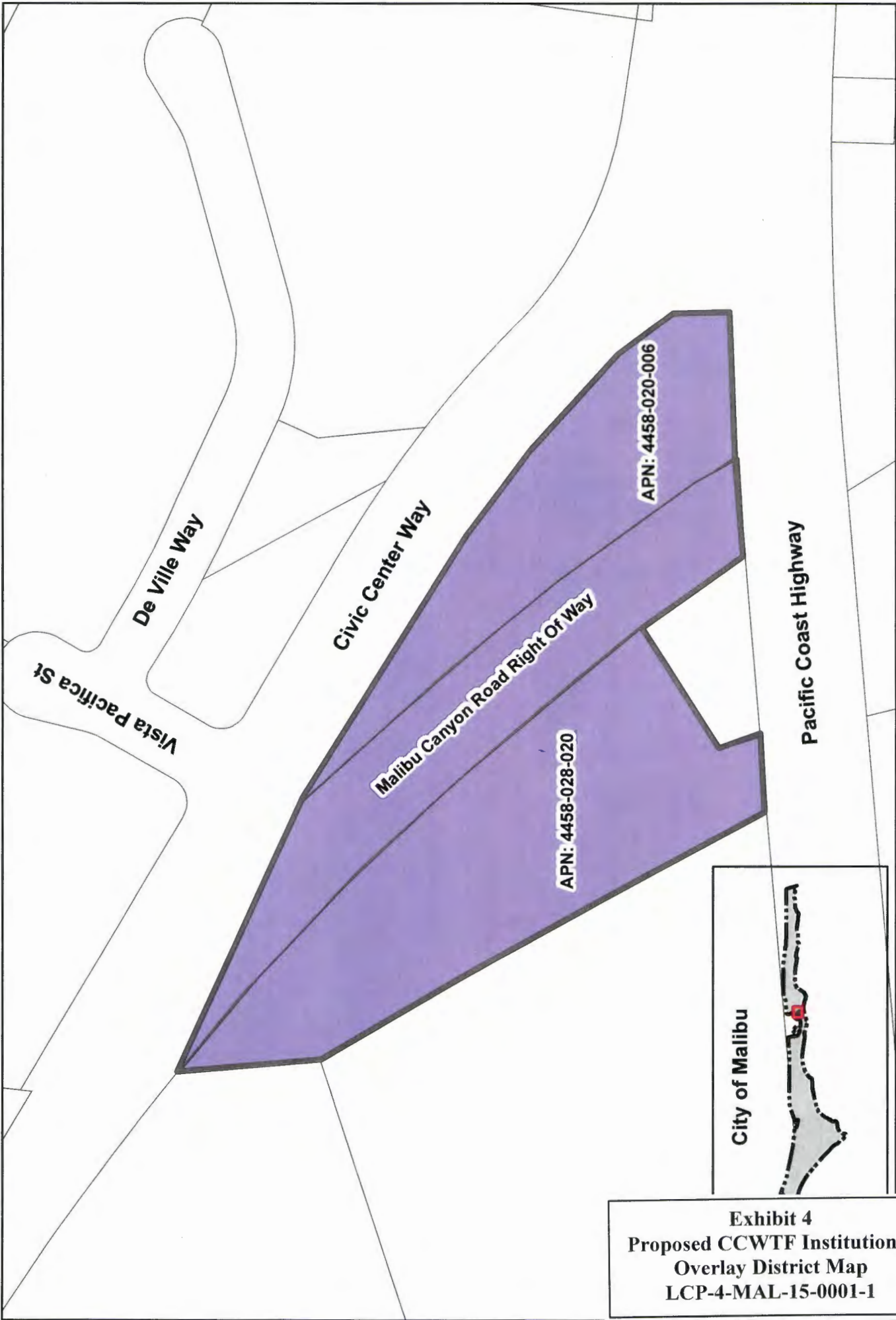
		Monitoring and Reporting Plan			
Impact No.	Impact Summary	Mitigation Measure (Exact Text)	Implementation and Reporting	Monitoring and Reporting	Implementation Schedule
			Responsible Party	Approval	Actions
		<p>receivers, adequate muffling (with enclosures where feasible and appropriate) shall be used to ensure that local noise ordinance limits are met to the extent feasible. Enclosure openings or venting shall face away from sensitive receptors. If any stationary equipment (e.g., ventilation fans, generators, dewatering pumps) is required, such equipment shall comply with the daytime and nighttime noise limits specified in pertinent noise ordinances to the extent feasible.</p> <ul style="list-style-type: none"> <li>Material stockpiles as well as maintenance/equipment staging and parking areas shall be located as far as feasible from residential and school receptors.</li> <li>Proposed jack-and-bore pits shall be located as far from sensitive receptors as technically feasible.</li> <li>A designated Project liaison shall be responsible for responding to noise complaints during the construction phases. The name and phone number of the liaison shall be conspicuously posted at construction areas and on all advance notifications. This person shall take steps to resolve complaints, including periodic noise monitoring if necessary. Results of noise monitoring shall be presented at regular meetings with the construction contractor, and the liaison shall coordinate with the construction contractor to modify, to the extent feasible, any construction activities that generate excessive noise levels.</li> </ul>	City of Malibu Contractor	City of Malibu	1. During Construction
NV-4	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity	MM NV-2: All emergency generators shall be housed and muffled with acoustically rated enclosures to reduce noise levels to the greatest extent possible.	Refer to MM NV-2, above		<ol style="list-style-type: none"> <li>Confirm measure incorporated into project specification</li> <li>Verify emergency generators are housed and muffled as specified by measure</li> </ol>
<b>3.12 UTILITIES</b>					
U-2	Construction of New Water or Wastewater Treatment Facilities or Expansion of Existing Facilities Could				See MM BIO-3, 5, 7, 10, 11, 13, and 14; MM AR-1 and 2; MM PR-1; MM GEO-1, 4, 5 and 7; MM HM-1 through 4; MM HY-



Malibu Civic Center Wastewater Treatment Facility Project  
MITIGATION MONITORING AND REPORTING PLAN

Impact No.	Cause Significant Environmental Effects	Impact Summary	Mitigation Measure (Exact Text)	Responsible Party	Review & Approval	Monitoring and Reporting Plan
1 and MM (IV)-1 and 2						
CONSTRUCTION AND TRAFFIC						
Construction Impacts	Temporary increase in traffic and traffic impacts during construction.	MM TRAN S-1	MM TRAN-1: To the greatest extent possible, the City shall coordinate the Traffic Control Plan and construction of the proposed Project with any projects that are scheduled to be constructed concurrently in the Civic Center area or along PCH within 1 mile of the Civic Center area. If related projects are anticipated to be constructed concurrently within the Civic Center area or along PCH within 1 mile of the Civic Center area, the City shall provide the Traffic Control Plan to the related project's proponent or other responsible entity and receive additional input from the proponent or responsible entity on potential construction haul routes and timing. The Traffic Control Plan will also be coordinated with school traffic patterns via consultation with the Santa Monica-Malibu Unified School District and Our Lady of Malibu representatives. Prior to finalization and approval of the Traffic Control Plan by the City and prior to the commencement of construction, the Traffic Control Plan shall be reviewed by LACFD and LASD.	City of Malibu Contractor	City of Malibu	1. Pre-Construction 2. During Construction  1. Develop list of projects in the Civic Center area or along PCH within 1 mile of the Civic Center area that are scheduled concurrent with the proposed Project 2. Develop Traffic Control Plan in coordination with these projects and with neighboring schools 3. Provide draft copies of Traffic Control Plan to LACFD and LASD for review and comment 4. Incorporate as appropriate comments from LACFD and LASD 5. Provide copies of Traffic Control Plan to responsible entities for the identified concurrent projects

**CCWTF Institutional Overlay District Map**





**Exhibit 4  
Proposed CCWTF Institutional  
Overlay District Map  
LCP-4-MAL-15-0001-1**

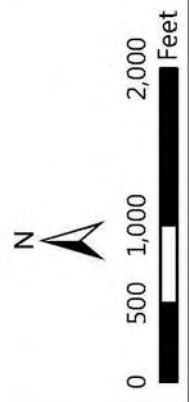


was prepared by the City of Malibu Planning Division on January 14, 2014.



# Civic Center Prohibition Area Map

-  Prohibition Boundary
-  Malibu City Boundary



**Exhibit 5**  
**Prohibition Area**  
**LCP-4-MAL-15-0001-1**

received

APR 27 2015

California Coastal Commission  
South Central Coast District Office

April 27, 2015

California Coastal Commission  
South Central Coastal District Office  
89 South California Street, Suite 200  
Ventura, CA 93001-4508

**RE: City of Malibu LCP Amendment No. LCP-4-MAL-15-000-1**

Dear Coastal Commission:

We write to lodge our objections to the City of Malibu's proposal to allow for the Civic Center Wastewater Treatment Facility (CCWWTF) on a property located at 24000 Civic Center Way in the City of Malibu currently zoned Visitor Serving Commercial II and to create an overlay district for the proposed treatment facility with associated development standards (the Project), and to commence an appeal of this action if the California Coastal Commission (the Commission) approves the City of Malibu's project. We support the Staff's motion to extend the time limit to act upon the City of Malibu's amendment.

We object to the project and will appeal approval of the Project in its current location (24000 Civic Center Way) because the City of Malibu has not adequately addressed the following health, safety, and CEQA issues:

- 1) Health and safety issues due to handling and storage of hazardous chemicals during operation;
- 2) Health and safety issues relating to diesel exhaust during construction and operation;
- 3) Health and safety issues due to potential of contaminated soils at the construction site;
- 4) Environmental impact on beaches and adjacent ESHA wetlands area;
- 5) View impact and potential odor impact issues; and
- 6) Inadequate analysis of alternative sites.

The Project will affect, and perhaps endanger, the following groups:

- a) ~400 elementary students at Webster Elementary (public) and Our Lady of Malibu (private) schools;
- b) ~800 parents of students at Webster and Our Lady of Malibu schools;
- c) ~100 staff at Webster and Our Lady of Malibu schools;
- d) >400 residents within <1/4 mile;
- e) A total of 1,700 people – approx 20% of Malibu full-time population;
- f) Flora and fauna in the ESHA wetlands area adjacent to the SE boundary of the project;
- g) Marine flora and fauna at Malibu Road beach and offshore.

Building an industrial-scale, municipal WWTF across the street from the city's largest elementary school, its highest density residential area, and an ESHA wetlands raises significant issues of health, safety and environmental protection. **CEQA Guidelines consider any project handling and storing hazardous materials within**

Exhibit 6  
Public Comment Letter  
LCP-4-MAL-15-0001-1

**1/4 mile of a school to have significant impact.** This specific issue, and other issues relating to the fact that these schools are so closely located to the CCWWTF project site have not been adequately addressed by the City of Malibu to protect the health and welfare of our schoolchildren.

CEQA guidelines are put in place for a reason – to avoid accidents, assure the health and safety of our citizens, and to protect our environment. The City of Malibu has simply ignored the CEQA guideline of restricting handling of hazardous materials within 1/4 mile of schools. This is unacceptable and irresponsible. There is virtually no precedent for such a decision. **A review of the more than 10,000 existing schools in the State of California reveals there are only 7 schools in the entire state that are located within 1/4 mile of a municipal WWTF. None of these schools are as close (<100yds) as the two schools that will be affected by the proposed CCWWTF.**

**There is a high potential for preexisting soil contamination at 24000 Civic Center Way resulting in potential for exposure of the above-mentioned groups to contaminated dust from excavation of an expected 7,771 cubic yards of material during construction.** This issue is barely acknowledged in the City's Phase I EIR analysis. The site has been an industrial-scale septic WWTF since 1988 serving the Malibu Colony Plaza Shopping Center which includes dry cleaners, spas, salons, restaurants, a grocery store and drug store as tenants. Ogden Cleaners has been operating there since 1989 and is listed on the hazardous chemical suspected release list.

Despite knowing that dry cleaners have used and disposed of carcinogenic and hazardous chemicals in their processes over the past 25 years, the City of Malibu has failed to address the potential for soil contamination in their documentation and believe that nothing more than a phase I analysis is necessary at this time. We disagree and have consulted an independent environmental consultant who briefly reviewed the information on the project and determined the likelihood of contamination is nearly 100%. The only question is what contaminants are present, in what concentrations, and whether these pose a serious health risk. This issue is not addressed in either the Geology and Soils or the Hazards and Hazardous Materials sections of the CDP.

**California Environmental Quality Act (CEQA) guidelines state that a project would result in a significant adverse impact if it would handle hazardous materials within 1/4 mile of a school. This clearly is the case. The playground at Webster Elementary is 100 yds away from the CCWWTF site.** While individual chemicals to be used on the site are reported to not be acutely hazardous materials, combinations of them are. Hypochlorite (which is a hazardous chemical and will be stored onsite in volumes ~1000 gallons) plus citric acid (to be stored onsite in amounts ~1000 pounds) produce chlorine gas. A toxic gas used against troops in WWI. Incidents involving the accidental mixing of hypochlorite and acids have been reported at WWTF across the country resulting in injuries and evacuations. The City's engineering consultant was not aware of this risk when asked at the Planning Commission meeting in Dec. 15, 2014. The City of Malibu proposes a Hazardous Chemical Business Plan to mitigate this adverse impact and manage these risks. A piece of paper is not adequate to protect the health and

welfare of our schoolchildren. The City of Malibu does not even mention this issue in the Hazards and Hazardous Materials Section of the CDP.

Operation of heavy equipment during construction will create an air quality hazard due to **diesel exhaust and particulate matter which may create a cancer risk for the adjacent schoolchildren and residents.** In addition, traffic of diesel trucks delivering chemicals and removing sludge during operations will also create an air quality hazard. The City has failed to consider this air quality impact in their analysis and the CDP.

The 24000 Civic Center Way site is next to Pacific Coast Highway and is approximately 200 yds from the beach at Malibu Road. A drainage tunnel literally at the front gate of the proposed CCWWTF goes under PCH and flows directly to the beach at Malibu Road. City of Malibu planners claim that the project is designed to prevent any spills, chemicals, or waste from leaving the property. Is the engineering design really this bulletproof? If not, **the next place any waste, spill, chemical, or any untreated, partially treated sewage from the CCWWTF site will end up will be the beach on Malibu Road.**

**The construction of the CCWWTF project will threaten the ESHA wetlands area on the southeast corner of the property by eliminating nearly all of the watershed that feeds it.** The CCWWTF site at 24000 Civic Center Way directly abuts a small Environmentally Sensitive Habitat Area (ESHA) wetlands area on the southeast boundary of the project. The CCWWTF project is built directly above, these wetlands and along the ancient Winter Canyon creekbed that is the watershed that sustains the ESHA wetlands. As stated above, the City of Malibu states that the CCWWTF is designed to prevent anything from leaving the site. While this is good to contain spills or accidental releases, this will prevent much of the existing gravity flow runoff that currently sustains these wetlands .

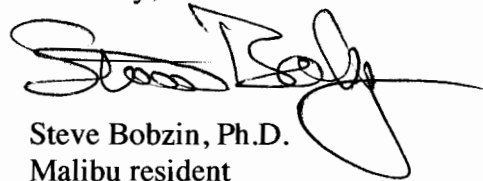
The CCWWTF project primary site at 24000 Civic Center Way has a direct view impact affecting >50 residences and will be seen by the entire population of ~1,700 people outlined above. The City has not taken into consideration this impact and only addressed the impact to scenic viewsheds in the CDP. The City has also not considered the potential odor impacts, which could include Volatile Organic Compounds (VOCs) which are a health hazard. The City reassures everyone that the design and technology used will result in no noticeable odor due to operations in the CDP, but provides little data to support this statement. The City joined some of the interested parties listed above on a tour of the Santa Paula WWTF that employs the same design for air containment and technology for air scrubbing as the plan for the CCWWTF. Upon getting out of our cars in the parking lot of the Santa Paula facility, it was immediately obvious we were at a sewer treatment facility. The smell was unmistakable. The annoyance of the odor is only part of the problem. These odors likely include VOCs which are also a health risk. Again, this issue has not been adequately addressed by the City in the CDP.

The City of Malibu has advanced the 24000 Civic Center Way site for the CCWWTF project for one reason only - cost. It is not acceptable to put our schoolchildren, wetlands, and ocean at risk to save some money. The cost difference for the project to be sited in a more appropriate, safer location is likely less than 20% of the current estimated project cost. There has been several other sites considered, but in the City's analysis of alternative sites they have inflated the risks and issues relating to these alternative sites, while minimizing the risks and issues relating to the 24000 Civic Center Way. This analysis has been contrived and misleading at best, borderlining on deliberately inaccurate at worst. Much of the City's argument to reject alternative sites has been based on the claimed benefit of the 24000 Civic Center Way site being on the Winter Canyon groundwater basin which is a separate watershed from the Malibu Valley groundwater basin. But this is irrelevant to the siting decision. The City themselves have stated that >95% of the time the treated water will be reused and/or injected at the injection well sites on Malibu Rd (regardless of where the main WWTF is located). The other <5% of the time, the percolation ponds on site may be used, but this process produces Title 22 quality water that would pose no threat to the Malibu Valley groundwater basin watershed. Perhaps the most egregious example of biased analysis is the discussion that concludes that the view impact of the Wave property is greater than the 24000 Civic Center Way site. There is no defensible logic to this conclusion provided by the City of Malibu in the CDP.

We have provided written and oral comments to the Draft EIR and at the City of Malibu Planning Commission (12/15/14) and City Council (1/12/15) meetings, as well as other Planning Commission meetings during 2014. The City of Malibu has largely ignored or discounted the concerns outlined in this letter. The Coastal Commission should consider these comments and reports as it evaluates the Project.

We urge the Coastal Commission to grant the Staff's request for an extension of time, and we urge the Coast Commission to consider and evaluate these issues. We believe that a more appropriate site exists in the Malibu Civic Center for this project. Other, more appropriate, sites should be considered for the sake of the health and safety of Malibu's schoolchildren, environment, and neighborhoods. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Bobzin", with a large, stylized flourish extending from the end of the name.

Steve Bobzin, Ph.D.  
Malibu resident  
[scbobzin@yahoo.com](mailto:scbobzin@yahoo.com)

April 27, 2015

received

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California Coastal Commission  
South Central Coast District

TO: California Coastal Commission  
South Central Coastal District Office  
89 South California Street, Suite 200  
Ventura, CA 93001-4508

**RE: City of Malibu LCP Amendment No. LCP-4-MAL-15-000-1**

Dear Coastal Commission:

We write to lodge our objections to the City of Malibu's proposal to allow for the Civic Center Wastewater Treatment Facility (CCWWTF) on a property located at 24000 Civic Center Way in the City of Malibu currently zoned Visitor Serving Commercial II and to create an overlay district for the proposed treatment facility with associated development standards (the Project), and to commence an appeal of this action if the California Coastal Commission (the Commission) approves the City of Malibu's project. We support the Staff's motion to extend the time limit to act upon the City of Malibu's amendment.

We object to the project and will appeal approval of the Project in its current location (24000 Civic Center Way) because the City of Malibu has not adequately addressed a series of health, safety, and CEQA issues that will be addressed in a separate letter.

The Project will affect, and perhaps endanger, the following groups:

- a) ~400 elementary students at Webster Elementary (public) and Our Lady of Malibu (private) schools;
- b) ~800 parents of students at Webster and Our Lady of Malibu schools;
- c) ~100 staff at Webster and Our Lady of Malibu schools;
- d) >400 residents within <1/4 mile;
- e) A total of 1,700 people – approx 20% of Malibu full-time population;
- f) Flora and fauna in the ESHA wetlands area adjacent to the SE boundary of the project;
- g) Marine flora and fauna at Malibu Road beach and offshore.

There is a significant number of the people in the groups mentioned above who are opposed to this project. Despite significant public objections at Planning Commission and City Council meetings, the City of Malibu has pushed forward with a flawed Project.

Please find attached evidence, in the form of petition signatures, of the opposition to this Project. During one week in January 2015, prior to the Malibu

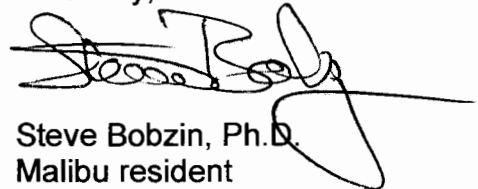


City Council hearing on the Project, a petition was circulated asking the City Council to acknowledge these health, safety, and environmental issues, and to seek an alternative site for the Project. In less than a week 250 signatures were obtained in support of this request. Please find enclosed this petition along with the signatures obtained from an online petition. Details of the online petition can be found at <http://www.thepetitionsite.com/451/712/297/protect-webster-elementary-and-our-lady-of-malibu-schools-and-neighboring-communities/>

Building an industrial-scale, municipal WWTF across the street from the city's largest elementary school, its highest density residential area, and an ESHA wetlands raises significant issues of health, safety and environmental protection. **CEQA Guidelines consider any project handling and storing hazardous materials within 1/4 mile of a school to have significant impact.** This specific issue, and other issues relating to the fact that these schools and wetlands are so closely located to the CCWWTF project site have not been adequately addressed by the City of Malibu to protect the health and welfare of our schoolchildren and environment.

We urge the Coastal Commission to grant the Staff's request for an extension of time, and we urge the Coast Commission to consider and evaluate these issues. We believe that a more appropriate site exists in the Malibu Civic Center area for this project. Other, more appropriate, sites should be considered for the sake of the health and safety of Malibu's schoolchildren, environment, and neighborhoods. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Bobzin", with a long horizontal flourish extending to the right.

Steve Bobzin, Ph.D.  
Malibu resident  
[scbobzin@yahoo.com](mailto:scbobzin@yahoo.com)

**To protect Webster Elementary and Our Lady of Malibu Schools and Neighboring Communities**

**PETITION:**  
The City of Malibu has planned to construct a municipal wastewater treatment facility (WWTF) across the street at 24000 Civic Center Way. There are several health, safety, and other issues relating to this project that are not being adequately addressed by the City of Malibu.

**WHY?**  
We are asking the City of Malibu City Council to: 1) Not approve the WWTF project as currently planned; 2) Request that the City of Malibu Planning Commission seriously consider other sites for the WWTF project; 3) Require that soil testing for specific contaminants at the planned WWTF site be conducted prior to project approval and construction; 4) Require that these testing results be released to the public within 7 days of receipt of report from an independent investigator.

**PETITIONED ACTION:**

Printed Name	Signature	Home Address	Email Address	Date
25 E. Inacio Garcia		3946 Puercocynard Malibu	garcia.ignacio47@yahoo.com	11/2/15
26 Victor Ford		23316 W. Bocana	Victorford23@gmail.com	11/12/15
27 Father James		23310 W. Pompano St	waterjames@psycology.com	11/12/15
28 Marcia Nix		Box 29054, L.A. CA 90290	marcianaix@smmusa.org	11/2/15
29 James Robertson		205 Fernwood, Topanga, CA 90290	James@roseida.com	11/2/15
30 Juan Marques		3719 Seaborn drive	Juan.marques@gmail.com	11/2/15
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36				

**To protect Webster Elementary and Our Lady of Malibu (OLM) Schools and Neighboring Communities from Potential Exposure to Chemical Hazards**

The City of Malibu has planned to construct a sewer system [a municipal wastewater treatment facility (WWTF)] at 24000 Civic Center Way, directly across the street from Webster and OLM Schools. There are several health, safety, and other issues relating to this project that are not being adequately addressed by the City of Malibu. First, the soil on this site is potentially contaminated with hazardous and carcinogenic materials due to the prior use of the land. Second, this site will use hazardous chemicals, while being <1/4 from these schools, thus having a "significant adverse impact" based on the California Environmental Quality Act (CEQA).

We are asking the Malibu City Council to: 1) Require that soil testing for specific contaminants at the planned WWTF site be conducted prior to project approval and construction; 2) Require that these testing results be released to the public within 14 days of receipt of report from an independent investigator; 3) Not approve the WWTF project as currently planned; 4) Request that the City of Malibu Planning Commission seriously consider other sites for the WWTF project.

**PETITIONED ACTION:**

Printed Name	Signature	Home Address	Email Address	Date
Shandiz Zandi		23943 DeVille Way Malibu, CA 90265	shandiz@cox.com	1/11/15
Carolyn Batesch		23951 DeVille Way	Carolyn.Batesch@netmail.com	1/11/15
<del>Carolyn Batesch</del>	<del></del>	23955 DeVille Way	ROCKAWASE@GMAIL	1/11/15
Debra Rouse		23955 DeVille Way	DRouse@CAL-mail.com	1/11/15
Shirley O'Connell		20852 Pacific Coast Hwy	shelley@virtualconnection.com	1/12/15
Nancy Harmon		2620 Encinitas Drive Malibu	blondy.hunter@gmail.com	1/12/15
Manuel Sweetman		7613 Kamana Pacific Malibu	Manuel.Sweetman@gmail.com	1/12/15
Haukyn Conrad		23456 Malibu Colony Rd	Hauk34@Mac.Com	1/12/15

**PETITION:**  
**To protect Webster Elementary and Our Lady of Malibu (OLM) Schools and Neighboring Communities from Potential Exposure to Chemical Hazards**  
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**PETITIONED ACTION:**

Printed Name	Signature	Home Address	Email Address	Date
21 Richard Dominich		3601 Vista Pacific #10	APMclaw@comcast.net	1-11-15
22 Laurie Robinson		"	"	1-11-15
23 Lois Lyons		3601 Vista Pacific #15	LLPEN53601@gmail.com	1-11-15
24 Melissa Garapedian		3601 Vista Pacific #9	missy1a@gmail.com	1-11-15
25 Edward Gonzalez		3601 Vista Pacific #11	edgonzalez@gmail.com	1-11-15
26 Alicia Puma		3601 #14 Vista Pacific	AVL112@gmail.com	1-11-15
27 Sheri Puma		3601 #14 Vista Pacific	SAS51713@gmail.com	1-11-15
28 Lauren Mox		3601 Vista Pacific #4	LAUREN.MOX@icloud.com	1-11-15
29				
30				

**TO protect Webster Elementary and Our Lady of Malibu Schools and Neighboring Communities**

The City of Malibu has planned to construct a municipal wastewater treatment facility (WWTF) across the street at 24000 Civic Center Way. There are several health, safety, and other issues relating to this project that are not being adequately addressed by the City of Malibu.

WHY?

We are asking the City of Malibu City Council to: 1) Not approve the WWTF project as currently planned; 2) Request that the City of Malibu Planning Commission seriously consider other sites for the WWTF project; 3) Require that soil testing for specific contaminants at the planned WWTF site be conducted prior to project approval and construction; 4) Require that these testing results be released to the public within 7 days of receipt of report from an independent investigator.

**PETITIONED ACTION:**

Printed Name	Signature	Home Address	Email Address	Date
13 Kimberly E Ledoux		6805 Zumirez Dr Malibu	malibuledoux@verizon.net	1-8-15
14 Matthew Kline		3525 Coast View Dr. Malibu	matkline@hotmail.com	1-8-15
15 David Alan		23344 Palm cym		1-8-15
16 AMERICA		3920 MALIBU VISTA RD	America@AOL.com	1-8-15
17 Tricia Stray		4366 Hillview Dr		1/8/15
18 Caryl J. Serrano		1926 Carroll Canyon Rd	cserrano@malibu.com	1/11/15
19 [Signature]		2824 E. RSY DR CASAS UN	PADO SW506@D.SUN	1/12/15
20 Peri Montre		3217 CUR. LACA	perimontre@stpmusic.org	1-12-15
21 [Signature]		22611 PCH	13737e@malibu.com	1/12/15
22 Felia Escob		23920 Malibu		1/12/15
23 Veda Kaplan		29800 Cuthbert Rd	vedakap@comcast.com	1-12-15
24 Douglas E. Carroll		3867 Cottonwood Grove Trl	dcro@earthlink.net	1/14/15

**PETITION:**  
**To protect Webster Elementary and Our Lady of Malibu Schools and Neighboring Communities**  
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**PETITIONED ACTION:**

Printed Name	Signature	Home Address	Email Address	Date
1. Stacy Rouse		24201 Boxer Malibu CA	stacy.rouse@reading.edu	1/16/15
2. Desi Bradley		4677 Escondido Dr.	desibradley@comcast.net	1/17/15
3. Ryan Rocca		3607 Surfwood Rd	rrocca@mac.com	1/19/15
4. Abbey Seiden		20698 Medley Lane	info@abbeyseiden.com	1/19/15
5. Jaclyn Cumming		30001 Seagull Way Unit B204 90265		1/18/15
6. Leah Cruise		28190 Reg de Cofe	Interkub@aol.com	1/8/15
7. Ian Kaiser		2180 SEA RIGE DR	laulie@verizon.net	1/8/15
8. Robin Woodman		28711 FCH #23	bm@malibu.com	1/8/15
9. J. Parkhurst		PO Box 2067	parkhurst@malibu.com	
10. Simon Warkels		PO Box 1540 Torrance CA 90220	FAST@malibu.com	1/8/15
11. PAFI AGOLAS		20606 MEDLEY LANE TORRANCE	PAFI7@VERIZON.NET	
12. Jacklyn Williams		24612 Skyline View	yafreckles@aol.com	1/18/2015

**To protect Webster Elementary and Our Lady of Malibu (OLM) Schools and Neighboring Communities from Potential Exposure to Chemical Hazards**

The City of Malibu has planned to construct a sewer system [a municipal wastewater treatment facility (WWTF)] at 24000 Civic Center Way, directly across the street from Webster and OLM Schools. There are several health, safety, and other issues relating to this project that are not being adequately addressed by the City of Malibu. First, the soil on this site is potentially contaminated with hazardous and carcinogenic materials due to the prior use of the land. Second, this site will use hazardous chemicals, while being <1/4 from these schools, thus having a "significant adverse impact" based on the California Environmental Quality Act (CEQA).

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**PETITIONED ACTION:**

Printed Name	Signature	Home Address	Email Address	Date
Soniya Peru	[Signature]	18431 Coastline Dr. Malibu 90265	Soniya.peru@yahoo.com	1/8/15
Johanna Muller	[Signature]	25729 Puma Road, Calabasas	JOHANNACHARLES1000@NETSCAPE.NET	1/8/15
Jennifer deNicola	[Signature]	21649 PCH	JD18@ucsc.edu	1/8/15
Lori Keeffe	[Signature]	26820 Cold Springs St, Calabasas	LoriK2244@gmail.com	1/8/15
Cheryl Kramer	[Signature]	26000 Alizya Cir, Calabasas	Cheryl.Kramer@gmail.com	1/8/15
Jennifer Kell	[Signature]	3802 Ridgeway Dr, Malibu	jenniferkell@cox.net	1/8/15
Karen Verham	[Signature]	6551 Duane Dr Malibu	KVerham@smmud.org	1/8/15
Wendy Weisenberg	[Signature]	2454 Mariposa Circle Malibu 90265	Linisenberg@gmail.com	1/8/15
[Signature]	[Signature]	21838 Castwood Dr Malibu	gary.stein11@verizon.net	1/8/15
Marissa Hahn	[Signature]	23319 W. Bacara St. Malibu	mhbahnla@gmail.com	1/8/15

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**PETITIONED ACTION:**

Printed Name	Signature	Home Address	Email Address	Date
1 Karen Kemla		6323 Via Escondido Dr. Malibu, CA 90265	karentamla@att.net	1/7/15
2 Felicia Faden		26107 Fairside Rd 90265	feliciafaden@yahoo.com	1/7/15
3 Stephanie Rocca		3607 Sunwood Rd 90265	SROCCA2007@yahoo.com	1/7/15
4 Erica Ross		16459 Zuma View 90265	EROSS@SUNWOOD.ORG	1/7/15
5 Merry Cronrod		31825 Sea Level 90265	mccronrod@smmusc.org	1/7/15
6 L. STEINMUTZ		3409 Villa COSTANA	MBU123@AOL.COM	
7 J. KUSTAL		5505 Capri View Dr. 605 Kingsport Dr	jokekustal.com	1/7/15
8 Elizabeth Speis			elizabethspeis.net	1/7/15
9 Jennifer Apple		20436 Beachview Drive	jenapple@msk.com	1/7/15
10 DENISE MARTIN		3504 Coast View Dr	denise.martin@comcast.net	

aol.com



<p><b>PETITION:</b></p>	<p><b>To protect Webster Elementary and Our Lady of Malibu (OLM) Schools and Neighboring Communities from Potential Exposure to Chemical Hazards</b></p>
<p><b>WHY?</b></p>	<p>The City of Malibu has planned to construct a sewer system [a municipal wastewater treatment facility (WWTF)] at 24000 Civic Center Way, directly across the street from Webster and OLM Schools. There are several health, safety, and other issues relating to this project that are not being adequately addressed by the City of Malibu. First, the soil on this site is potentially contaminated with hazardous and carcinogenic materials due to the prior use of the land. Second, this site will use hazardous chemicals, while being &lt;1/4 from these schools, thus having a "significant adverse impact" based on the California Environmental Quality Act (CEQA).</p>
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Printed Name	Signature	Home Address	Email Address	Date
Julie Lee		2004 Capitan Ln, Torrance	julielee@capitan.com	1/8/15
Angie Lemley		24470 Tines Court	alemley@msc.com	1/5/15
Wei Qiao		23953 DE VILLE WAY	weiqiao1999@yahoo.com	1/11/15
Yan G Zhang		23953 De Ville Way	lauraph@stcglobal.net	1/11/15
KAM TILBORG		23999 De ville way	Peter@LURAP.COM	1/1/15
Sheri Swist		23931 De Ville Way	Sheri@oceanlav.com	1-11-15
Adel Al-Sumait		23933 De Ville Way	adel@alboomunite.com	1/11/15
Yasmeen A-Sumait		23933 De Ville Way	yasmeenalsumait@gmail.com	1/11/15
Bradley Bourden		23937 De Ville Way	bourden@alaska.net	1/11/15
Mehdi Mostaedi		23943 De Ville way	mmc@northwestprofessionals.com	1/11/15

<p><b>PETITION:</b></p>	<p><b>To protect Webster Elementary and Our Lady of Malibu (OLM) Schools and Neighboring Communities from Potential Exposure to Chemical Hazards</b></p>
<p><b>WHY?</b></p>	<p>The City of Malibu has planned to construct a sewer system [a municipal wastewater treatment facility (WWTF)] at 24000 Civic Center Way, directly across the street from Webster and OLM Schools. There are several health, safety, and other issues relating to this project that are not being adequately addressed by the City of Malibu. First, the soil on this site is potentially contaminated with hazardous and carcinogenic materials due to the prior use of the land. Second, this site will use hazardous chemicals, while being &lt;1/4 from these schools, thus having a "significant adverse impact" based on the California Environmental Quality Act (CEQA).</p>
<p><b>PETITIONED ACTION:</b></p>	<p>We are asking the Malibu City Council to: 1) Require that soil testing for specific contaminants at the planned WWTF site be conducted prior to project approval and construction; 2) Require that these testing results be released to the public within 14 days of receipt of report from an independent investigator; 3) Not approve the WWTF project as currently planned; 4) Request that the City of Malibu Planning Commission seriously consider other sites for the WWTF project.</p>

Printed Name	Signature	Home Address	Email Address	Date
1 Joni Kletter		3505 Coast View Dr	Joni@Kinosys.com	1/7/15
2 Charles Wagner		23014 W. Pompano St	Nicole.Wagner@Yahoo.com	1/7/15
3 DAVID MAISTHOSS		23667 Malibu Colony Dr.	DMAI54055@Verizon.net	1/17/15
4 Andrea Lapinski		26917 Sea Vista Dr.		
5 Melissa Stein		2838 Castleview Dr	melissa.stein@verizon.net	
6 Rindi Korn		3511 Coast View	Laval@rc@hotmail.com	
7 Rape Clayton		5224 Paseo Canyon Dr	RapeClayton@Verizon.com	1/7/15
8 SARAH HEMER		23224 W. Palmwood Blvd	Sarah@netnet.com	1/8/15
9 Ron Kaloger		24539 MALIBU CIRCLE	KALOGER@NETZEP.NET	1/8/15
10 Dorelle Morris		1942 Newell Rd	daniel@morris.com	1/8/15

**PETITION:**  
**To protect Webster Elementary and Our Lady of Malibu (OLM) Schools and Neighboring Communities from Potential Exposure to Chemical Hazards**  
 (WWTF)] at 24000 Civic Center Way, directly across the street from Webster and OLM Schools. There are several health, safety, and other issues relating to this project that are not being adequately addressed by the City of Malibu. First, the soil on this site is potentially contaminated with hazardous and carcinogenic materials due to the prior use of the land. Second, this site will use hazardous chemicals, while being <1/4 from these schools, thus having a "significant adverse impact" based on the California Environmental Quality Act (CEQA).

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**PETITIONED ACTION:**

Printed Name	Signature	Home Address	Email Address	Date
11 David McArthur		2455 PCM #C301B	GO-MAN-GO@HOTMAIL.COM	1-8-15
12 CAROLINE DELISIO		2455 PCM #C301B	BUILDINGSIGNATUREMAIL.COM	1-8-15
13 JUSTIN WOO		3601 Vista Pacific #16	jwoos31@gmail.com	1-8-15
14 Ben DePaul		3001 Vista Pacific #12	tanandeleid@comcast.net	1-11-15
15 Matt Fryberg		3601 Vista Pacific #6	matt.fryberg@comcast.net	1-11-15
16 Barbara Mills		3601 Vista Pacific #9	millsbarbie@gmail.com	1-8-15
17 Jonathan Mills		"	"	"
18 Micaela Chambers		3601 Vista Pacific	michaeladownchamber@gmail.com	1-8-15
19 Sarah Newman		3601 Vista Pacific #1	SarahNewman@gmail.com	1-11-15
20 Drew Newman		3601 Vista Pacific #1	newman67@gmail.com	1-11-15

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**PETITIONED ACTION:**

Printed Name	Signature	Home Address	Email Address	Date
1 Janice Layco		24955 PCH Malibu, CA 90265	laycorocks@yahoo.com	1-8-14
2 DAVIS GRANO		24955 PCH MALIBU, CA 90265	AVIS66@HOTMAIL.COM	1-8-15
3 VERONICA SCHUBERTZ		24955 PCH MALIBU, CA 90265	Expert@VeronicaSchubert.com	1-8-15
4 REBECCA BARON		10216 TAPIA DR. ANHUBUNGA 90207	lewja13@gmail.com	1-8-15
5 GREGORY BERTIN		24955 PCH SUPERCLAY	gregorybertin@live.com	1-8-15
6 GEMMAINE MORTON		28276 Key De Lomas LN	gemmainemorton@gmail.com	1-8-15
7 CATHERINE GENEVOTE		88236 Bay de Capro Lane	catherine@thebeachchick.com	1-8-15
8 OLIVIA BREEN		6451 ZUMA VIEW PLACE	pinup@eolivia.com	1-8-15
9 LAURA CROWEN		24955 PCH #B202 MALIBU 90265	lauracrowen44@gmail.com	1-8-14
10 Barbara Goldman		24955 PCH #B202 Malibu 90265	barbaragoldman@earthlink.net	1-8-15

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Printed Name	Signature	Home Address	Email Address	Date
11		20980 Mulholland Hwy	KTille 80 @ yahoo.com	1/7
12		23838 P.C.H. # 558 Malibu	weddyjacobson@hotmail.com	1/7
13		Webster Junction	pbwrecha@verizon.net	1/7/15
14		1114 So. Sycara Bonita	CAF DMU 6808 @ Exc.	1-7/15
15		3750 Santa Rosalia	Daryl Adams @ yahoo.com	1-7-15
16		23823 Malibu Rd. Ste 50 #242	Morgan, Jennifer @ gmail.com	1/7/15
17		640 Laurel Rd. Malibu 90265	Jrvm1959@gmail.com	1/7/15
18		3542 Westmount Ave. 90243	dcoleman337@gmail.com	1-7-15
19		1824 Colby Ave LA CA	jessicamdcarlo@gmail.com	1-7-15
20		20710 9th St Malibu 90265	lorarodgers@gmail.com	1-7-15

**To protect Webster Elementary and Our Lady of Malibu (OLM) Schools and Neighboring Communities from Potential Exposure to Chemical Hazards**

**PETITION:** The City of Malibu has planned to construct a sewer system [a municipal wastewater treatment facility (WWTF)] at 24000 Civic Center Way, directly across the street from Webster and OLM Schools. There are several health, safety, and other issues relating to this project that are not being adequately addressed by the City of Malibu. First, the soil on this site is potentially contaminated with hazardous and carcinogenic materials due to the prior use of the land. Second, this site will use hazardous chemicals, while being <1/4 from these schools, thus having a "significant adverse impact" based on the California Environmental Quality Act (CEQA).

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**PETITIONED ACTION:**

Printed Name	Signature	Home Address	Email Address	Date
1 Steve Bobzin		23957 DeVillle Way Malibu	schobzin@proton.com	1/6/15
2 KARIE Bobzin		"	kkebobzin@yahoo.com	1/6/15
3 Athena Sklion		113 Paradise Cove Rd.	athenasn@aol.com	1/6/15
4 Kacey Han		21847 Krantz Way	Karenh2006@gmail.com	1/6/15
5 Kathy Kaloper		24539 Mariposa Cir.	Kathleen.eldridge@ppd.com	1/7/15
6 Chris Rodgers		20710 P.C.H. #6 Malibu, CA 90265	rodgers.chris@aol.com	1/7/15
7 Lisa Marie Elwes		11601 Malibu	jahlone@earthlink.net	1-7-15
8 Melba Fern		626 Winkler View Dr.	mlope@kbsch2.org	1-7-15
9 MICHAEL BROWN		3800 Lumbic Orieta St. Malibu	Michaelanton1983@gmail.com	1/2/15
10 Ceska Brown		20572 Cildenancy	leslejester@gmail.com	1/2/15

# The Malibu City Council

	<b>Name</b>	<b>From</b>	<b>Comments</b>
1.	Steve Bobzin	Malibu, CA	
2.	Karie Bobzin	MALIBU, CA	
3.	Richard Rouse	Malibu, CA	
4.	Serdar Murat	Vienna, Austria	
5.	Sieglinda Du Preez	East London, South Africa	
6.	John Brewer	MARIETTA, OH	
7.	Nicole Maschke	CLEVELAND, OH	
8.	susan toth	MALIBU, CA	
9.	Barbara Mills	Malibu, CA	
10.	Lois Lyons	Malibu, CA	
11.	Chana Harris	MALIBU, CA	
12.	Mary Ann Fishburn	Malibu, CA	
13.	Ryan Shain	Malibu, CA	
14.	Judy Van Schoyck	MALIBU, CA	There are better locations other than across the street from 2 schools and over 250 residences. It is too close to the road as well
15.	Lori Manfredonia	Malibu, CA	
16.	Suzanne Klein	Malibu, CA	
17.	Nancy Weiss	MALIBU, CA	
18.	Carmen Shain	MALIBU, CA	
19.	John Mills	Malibu, CA	
20.	anna connelly	Malibu, CA	Please do not allow this wastewater treatment facility to be built near our school.
21.	Ann matranga	Sausalito, CA	
22.	Lori Dome	MALIBU, CA	
23.	Debbie Bentzen	Calabasas, CA	
24.	Kathie Ferbas	MALIBU, CA	
25.	Hope edelman	Topanga, CA	
26.	Dominique Lejade	MALIBU, CA	
27.	Teri Carcano	MALIBU, CA	Please consider our children... We Do Not Inherit the Earth from Our Ancestors; We Borrow It from Our Children

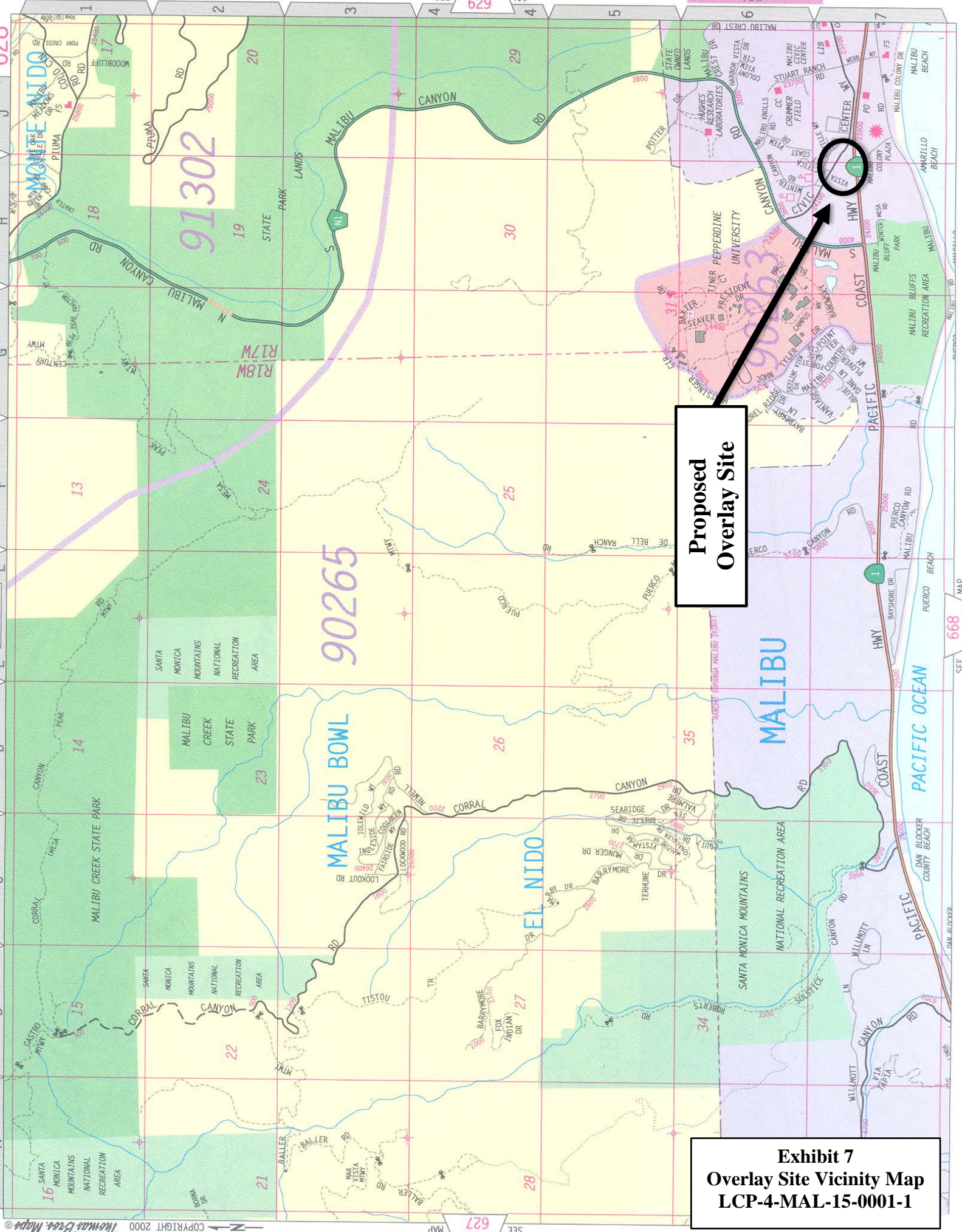
	<b>Name</b>	<b>From</b>	<b>Comments</b>
28.	Tracy Park	MALIBU, CA	
29.	Lucinda Manera	MALIBU, CA	
30.	Jeff Nalin	MALIBU, CA	
31.	Tricia Strong	MALIBU, CA	
32.	Dajana Mitchell	MALIBU, CA	
33.	Kim Cunningham	Malibu, CA	
34.	Wendy Nickerson	Malibu, CA	
35.	Bridget Crocker	Malibu, CA	
36.	Sara Potter	MACOMB, MI	
37.	Jennifer deNicola	Malibu, CA	We have to be prudent about protecting our children in schools today and those that will attend in the future. We need the City of Malibu to work with parents and community members to ensure that no harm can come to our students and staff, by properly testing and disclosing all information so we can make intelligent and informed decisions regarding issues that affect this community and it's children for generations to come.
38.	Alicia Sky Kunerth	Malibu, CA	
39.	Mark kunerth	MALIBU, CA	
40.	norren austin	malbiu, CA	
41.	Jeff Kletter	MALIBU, CA	
42.	Pierre Simenon	Shelburne, VT	
43.	Maria Moss	MALIBU, CA	
44.	Tracy Kies	MALIBU, CA	
45.	Ceillia Whiteford	MALIBU, CA	
46.	Jo Cherkas	Malibu, CA	
47.	Shelley OConnor	Malibu, CA	
48.	P. Amith	Seattle, WA	
49.	Tatiana goode	MALIBU, CA	
50.	Lili Foster	MALIBU, CA	
51.	Linn Griffin	MALIBU, CA	
52.	Peter Hopkinson	malibu, CA	
53.	jeff graup	MALIBU, CA	
54.	Dina Newman	MALIBU, CA	
55.	Ulf Soderqvist	Malibu, CA	
56.	Ching Lerner	MALIBU, CA	
57.	Myriam Marques	Malibu, CA	
58.	Christine Jackson	MALIBU, CA	My brother & I went to OLM & his kids went to Webster. KEEP PEOPLE SAFE!!!



	<b>Name</b>	<b>From</b>	<b>Comments</b>
59.	Matt rapf	MALIBU, CA	
60.	Gabrielle Vickers	SHERMAN OAKS, CA	
61.	Sheri perry	MALIBU, CA	
62.	Diana Mullen	Malibu, CA	
63.	Stephanie Marshall	PASADENA, CA	
64.	Martha Fling	MALIBU, CA	I attended OLM, as did two of my children. Waste treatment facilities do not belong near schools, but in industrial zones. Why not place it next to the City's offices?
65.	Pamela Morton	BEVERLY HILLS, CA	
66.	mari stanley	malibu, CA	
67.	Glenn Robinson	LINDEN, VA	
68.	Brooke Bohm	Malibu, CA	
69.	Andy Jackson	Malibu, CA	
70.	Julie Earner	Malibu, CA	
71.	Deirdre roney	MALIBU, CA	
72.	Cathy Giblin	San Jose, CA	
73.	silja salonen	Toronto, Canada	
74.	Dru Ann Jacobson	MALIBU, CA	
75.	Soniya Perl	MALIBU, CA	We need to make sure this is safe for our children..now and in 50 years to come.
76.	Amy Kijner	Malibu, CA	
77.	Karen anderson	Elk, WA	
78.	Candace Kelly	MALIBU, CA	
79.	Michael Comfort	MALIBU, CA	
80.	Nancy saul	Malibu, CA	
81.	Bobbi Woodman	Malibu, CA	
82.	Elana Krausz	Malibu, CA	
83.	Tia Carrere	Topanga, CA	
84.	suheila mouammar	Calabasas, CA	
85.	Lena Jemelian	MALIBU, CA	
86.	Robert Ross	MALIBU, CA	
87.	Marla Pennington Rowan	MALIBU, CA	
88.	Gary Seiden	Topanga, CA	If we place any value on the health and safety of our children and our community, this is not an acceptable site for this sewage treatment facility.

	<b>Name</b>	<b>From</b>	<b>Comments</b>
89.	Natalie Bernstein	MALIBU, CA	
90.	Michelle Delrahim	Malibu, CA	
91.	Makan Delrahim	Malibu, CA	
92.	Michelle Kahen	MALIBU, CA	
93.	Jay Armitage	MALIBU, CA	
94.	Julia Fordham	Topanga, CA	
95.	Tamara Mathis	Malibu, CA	
96.	Jonathan Mathis	Malibu, CA	
97.	Kristin Grannis	Malibu, CA	
98.	Kathleen Feig	MALIBU, CA	
99.	Jody Lappin	MALIBU, CA	
100.	Brooke Begin	AGOURA HILLS, CA	
101.	Iraj Kahen	MALIBU, CA	
102.	Paul Begin	MALIBU, CA	Please take the health of our children seriously.
103.	Dan Heffernan	Malibu, CA	In light of the controversy surrounding the safety of Malibu High School, one would think there would be an abundance of caution in considering the placement of a potentially hazardous facility so close to our elementary school.
104.	Lori Rose	Malibu, CA	I teach at Webster School and am already a cancer survivor and no one knows how I got the cancer. It would be a true health hazard to students, faculty, parents, visitors to the schools, and anyone in surrounding areas if this project continues as you suggest. Please re-think this project and build it elsewhere, away from children and teachers!
105.	Matt Innes	MALIBU, CA	
106.	Marjorie Apel	Hastings on Hudson, NY	
107.	Molly Marler	Calabasas, CA	
108.	Lili Kaiser	Malibu, CA	
109.	Linda Samuel	MALIBU, CA	
110.	Holger Fortnagel	Malibu, CA	
111.	Andrew Mitchell	MALIBU, CA	There has to be a better site for the much needed sewage system than directly besides the main schools in the area! Seriously!
112.	Shelley Kommers	calabasas, CA	
113.	Pamela Litz	MALIBU, CA	
114.	Louisa Roberton	Topanga, CA	
115.	Donna Eldridge	Rancho Palos Verdes, CA	

	<b>Name</b>	<b>From</b>	<b>Comments</b>
116.	Shirley Kahen	LOS ANGELES, CA	
117.	Barrett Eldridge	RPV, CA	
118.	Jesse Amarillas	TOPANGA, CA	
119.	Anna Selvaggio	Malibu, CA	
120.	Shannon Meyers	MALIBU, CA	
121.	Wendi Mathews	Malibu, CA	



**Proposed  
Overlay Site**

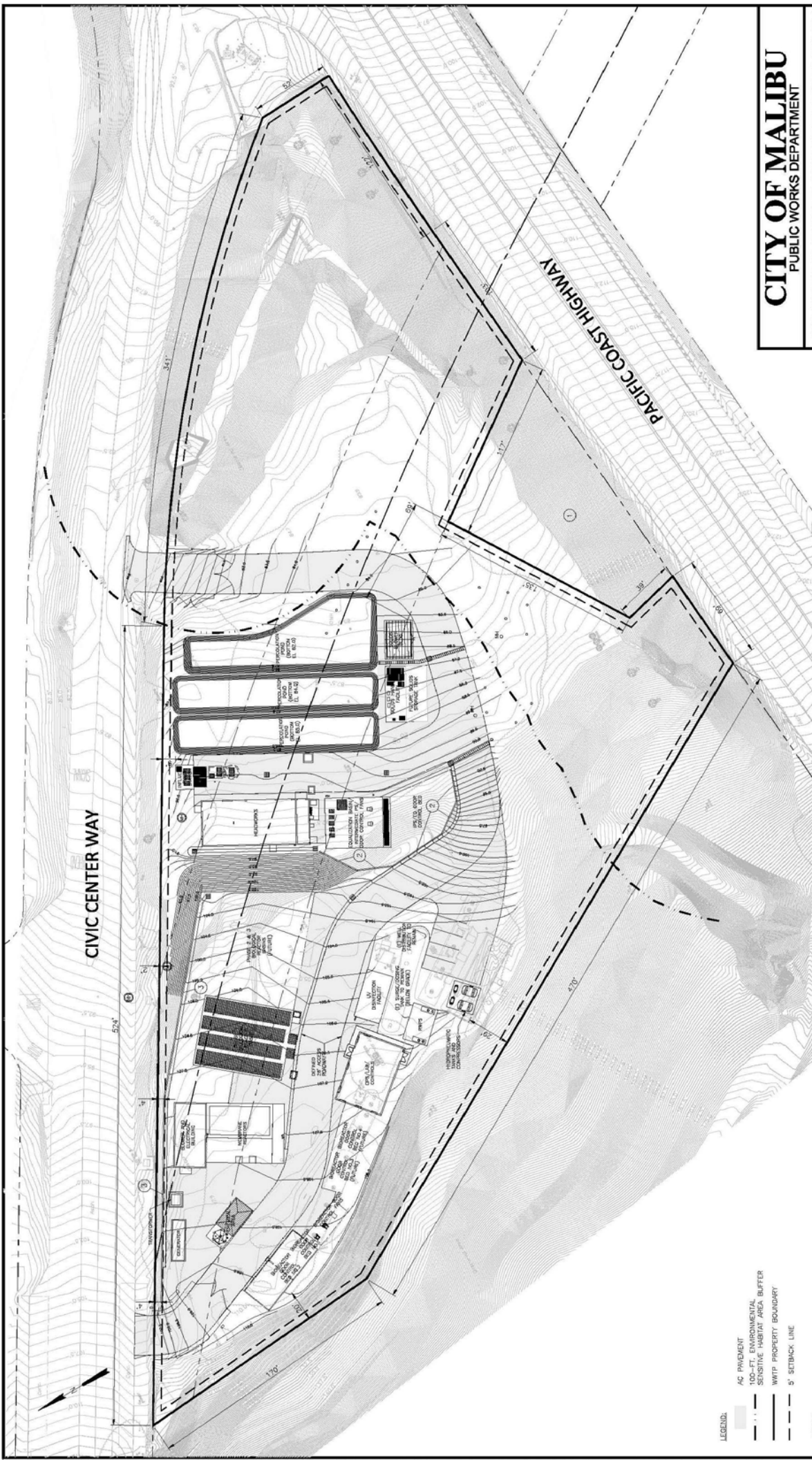
**Exhibit 7  
Overlay Site Vicinity Map  
LCP-4-MAL-15-0001-1**



**Exhibit 8**  
**Aerial Photo**  
**LCP-4-MAL-15-0001-1**



**Exhibit 9**  
**CCWTF Overlay Site Photo**  
**LCP-4-MAL-15-0001-1**



**CITY OF MALIBU**  
PUBLIC WORKS DEPARTMENT

CIVIC CENTER WASTEWATER TREATMENT FACILITY - PHASE 1

SITE PLAN FOR COASTAL DEVELOPMENT PERMIT

DESIGNED BY: M. HARRIS	DATE:	APPROVED BY:	DATE:
CHECKED BY: M. FLOYD	DATE:	AS SHOWN	2008-04-14
DRAWN BY: M. HARRIS	DATE:	PROJECT NUMBER:	2008
SCALE:	DATE:	PROJECT NUMBER:	2008
SCALE:	DATE:	PROJECT NUMBER:	2008

Sheet No. XXX of XXX Sheets



95%  
Submittal  
Not for  
Construction



VERIFY SCALES  
ALONG ON ALL  
IF NOT CONSISTENT  
WITH THIS ADJUST  
SCALES ACCORDINGLY



- LEGEND:
- AC PAVEMENT
  - 100-FT. ENVIRONMENTAL SENSITIVE HABITAT AREA BUFFER
  - WTP PROPERTY BOUNDARY
  - 5' SETBACK LINE

- NOTES:
- 1 THIS AREA IS NOT PART OF THE FACILITY PROPERTY.
  - 2 1 TO 12 FOOT HIGH RETAINING WALL.
  - 3 4 TO 7 FOOT HIGH RETAINING WALL.

**Exhibit 10**  
**Conceptual**  
**CCWTF Project**  
**Site Plan**  
**LCP-4-MAL-15-**  
**0001-1**

Figure 3-7. Civic Center Wastewater Treatment Facility



Exhibit 11  
 Conceptual CCWTF Aerial  
 Site Plan  
 LCP-4-MAL-15-0001-1



# Bluffs Park - Typical Pump Station Site Plan



Typical Utility Cabinet



Typical Lift Station and Meter Box



Exhibit 12  
 Conceptual CCWTF Project  
 Pump Station Plan  
 LCP-4-MAL-15-0001-1