

CALIFORNIA COASTAL COMMISSION

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F9b

A-5-NPB-21-0026 (City of Newport Beach)

August 13, 2021

EXHIBITS

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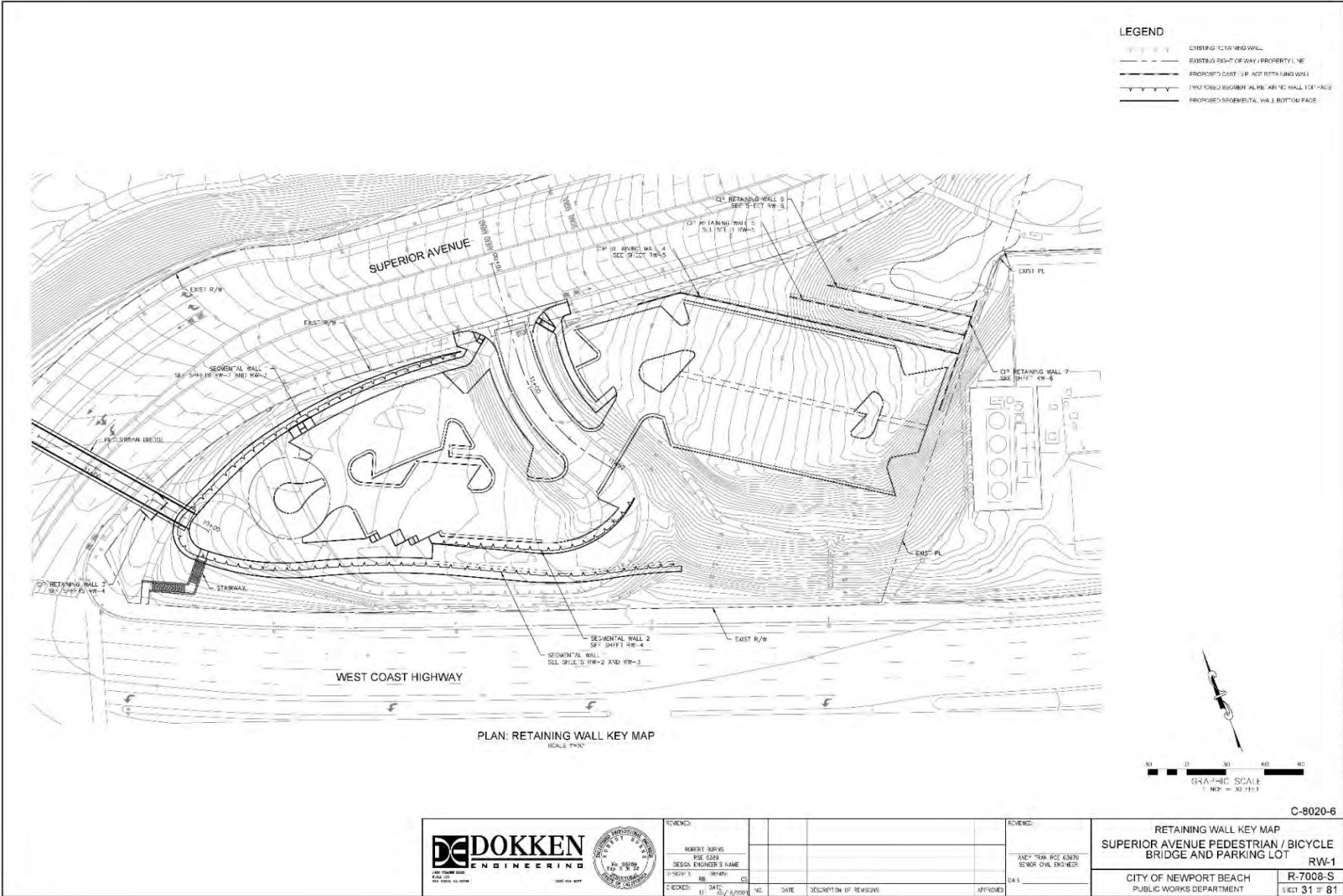
Exhibit 1 – Location Map





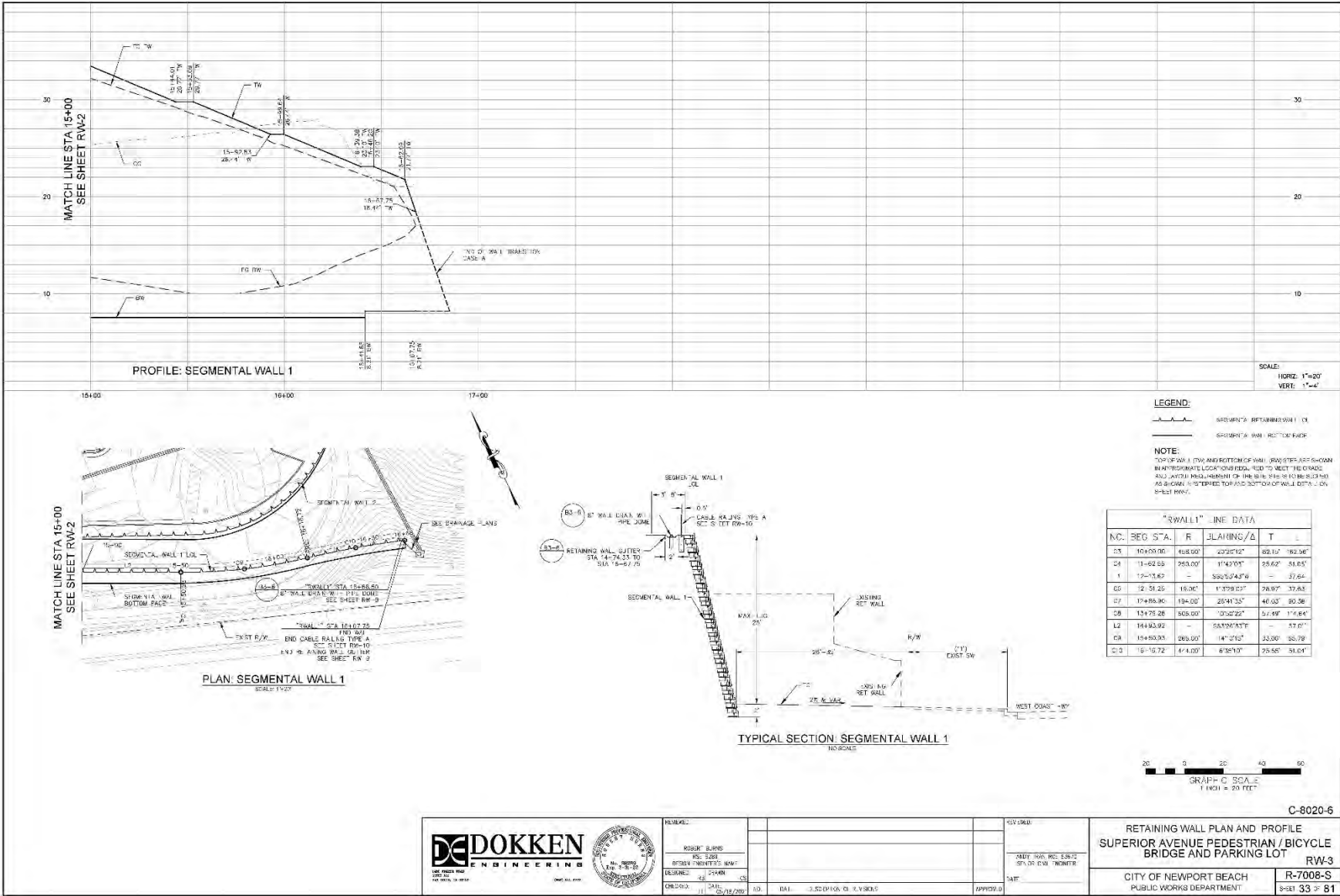


Retaining Wall Plan

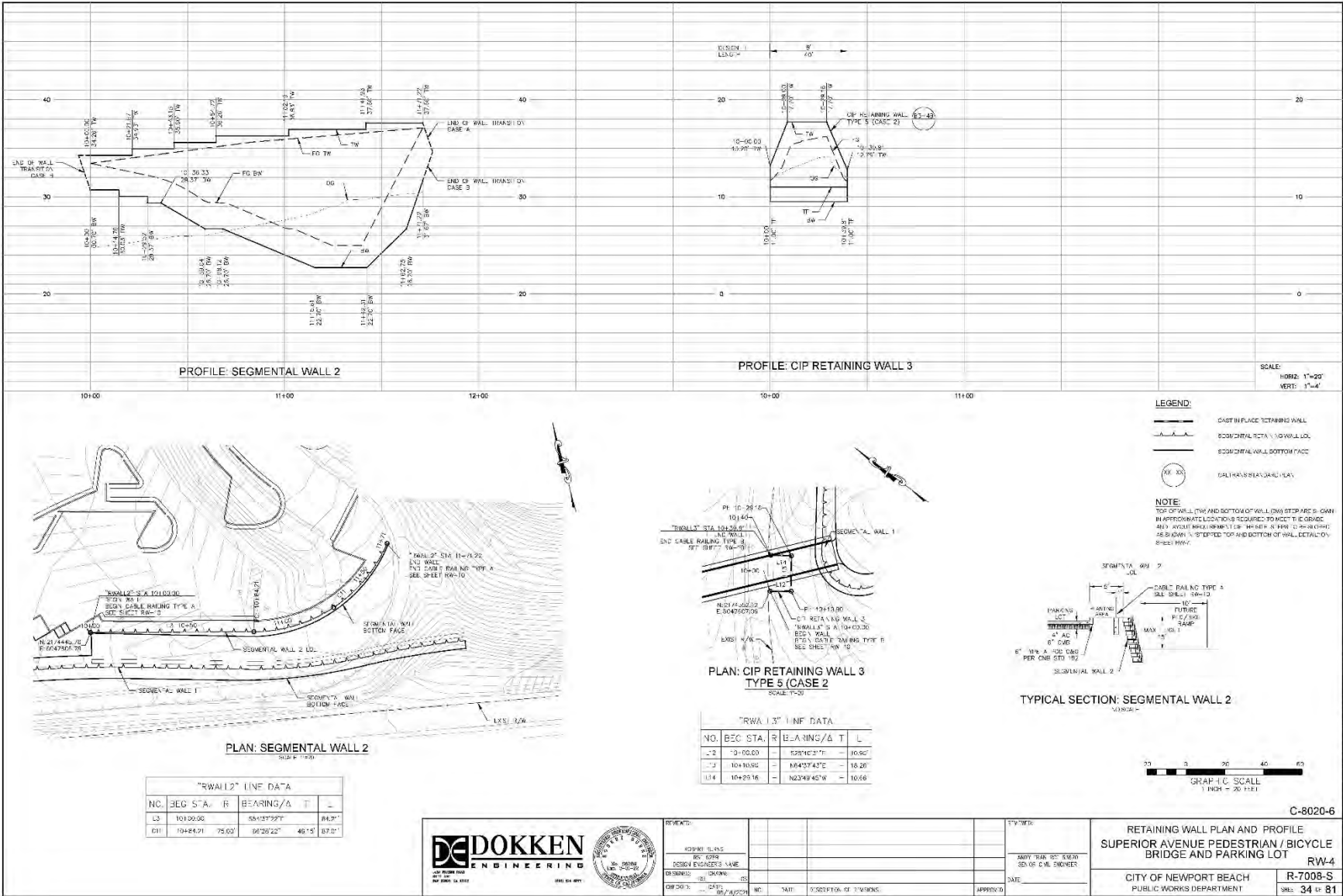




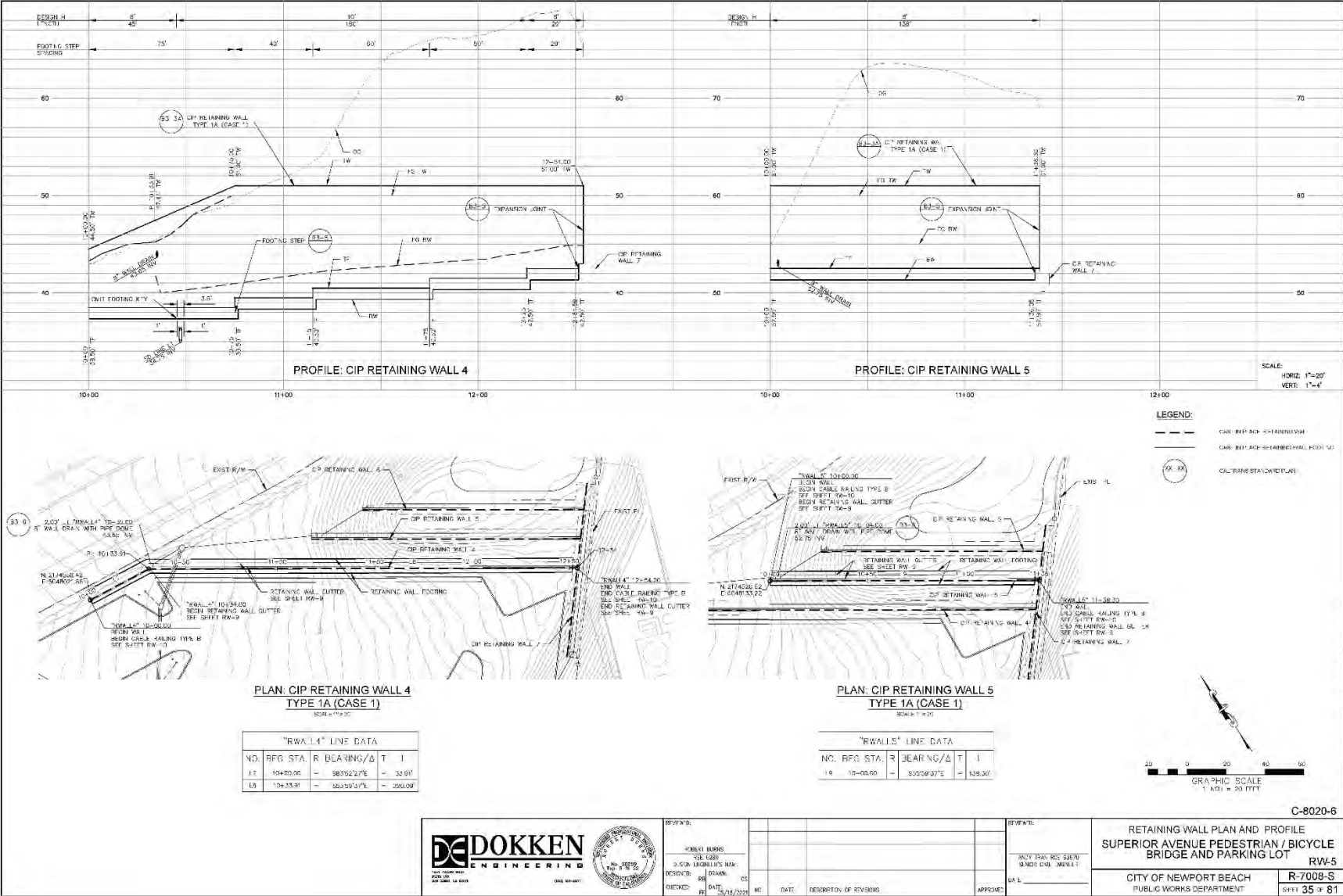
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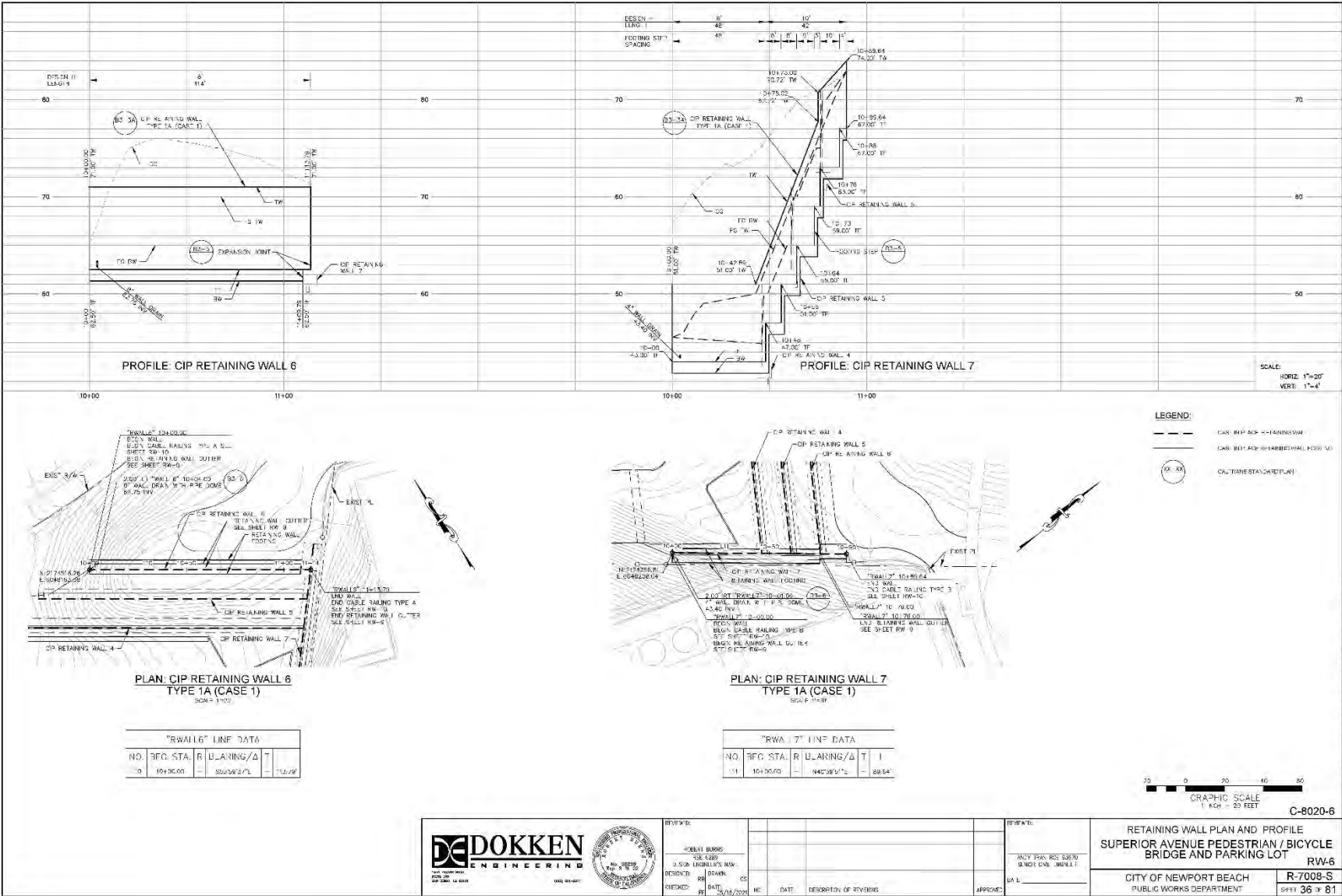
Retaining Wall Plan



Retaining Wall Plan



Retaining Wall Plan



Foundation Plan

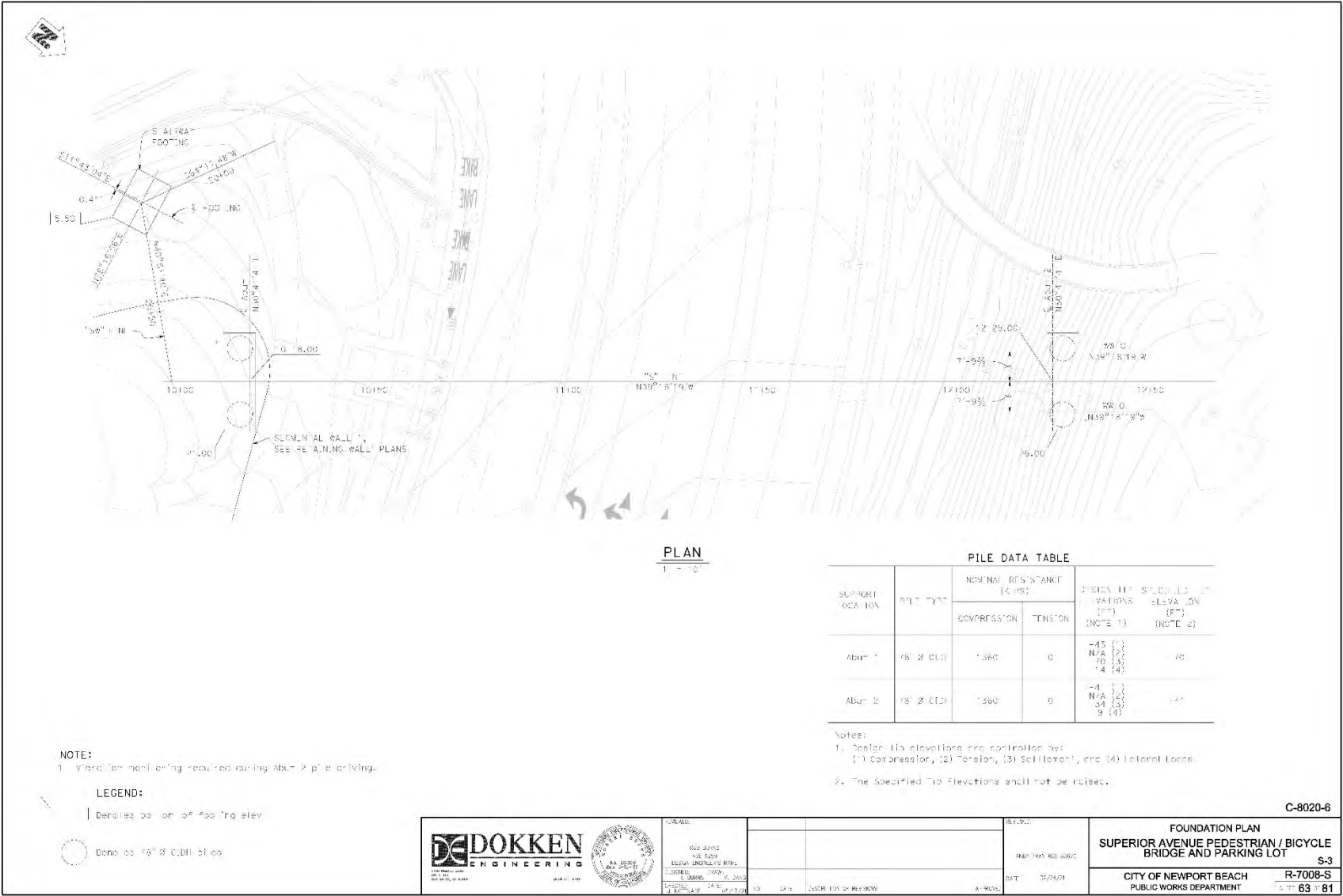


Exhibit 3 – Figure 4-1: Updated Bridge Design Ocean Viewpoint

*Superior Avenue Pedestrian and Bicycle Bridge and Parking Lot Project MND Addendum
Newport Beach, California*

Figure 4-1: Updated Bridge Design Ocean Viewpoint



Figure 4-1
Updated Bridge Design
Ocean Viewpoint

Name: 21109 PLAN Fig 4-1 Updated Bridge Design Ocean Viewpoint Mod
File Date: 9/29/2020, Author: jcoriak



Exhibit 4 – Existing & Proposed View of Location of Retaining Wall Along West Coast Highway

Existing View

*Superior Avenue Pedestrian and Bicycle Bridge and Parking Lot Project
Newport Beach, California*



VIEWPOINT 4: WEST COAST HIGHWAY EAST OF SUPERIOR AVENUE - EXISTING

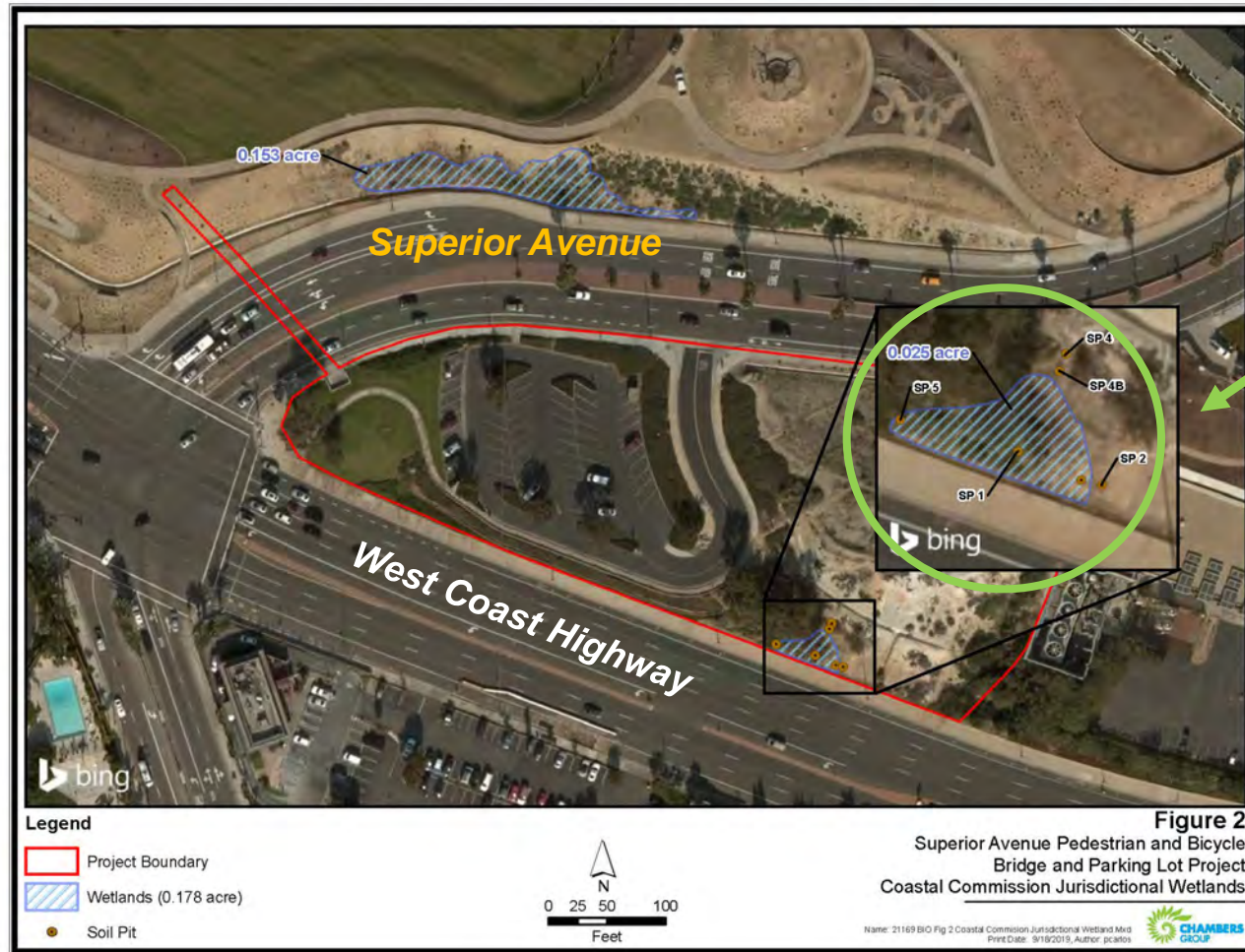
Post Construction View

*Superior Avenue Pedestrian and Bicycle Bridge and Parking Lot Project
Newport Beach, California*



VIEWPOINT 4: WEST COAST HIGHWAY EAST OF SUPERIOR AVENUE - SIMULATION - CONCRETE

Exhibit 5 – West Coast Highway Wetland



West Coast Highway Wetland

Exhibit 6 – Local Determination: Planning Commission Resolution - No. PC2021-005

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RESOLUTION NO. PC2021-005

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, UPHOLDING THE DECISION OF THE ZONING ADMINISTRATOR ADOPTING MITIGATED NEGATIVE DECLARATION ADDENDUM NO. ND2019-002 AND APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-143 FOR THE DEMOLITION OF AN EXISTING SURFACE PARKING LOT AND THE CONSTRUCTION OF A NEW PEDESTRIAN/BICYCLE BRIDGE, SURFACE PARKING LOT, AND IMPROVEMENTS TO OPEN SPACE AND GRANTING RELIEF FROM THE DEVELOPMENT STANDARDS OF THE LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN AT SUPERIOR AVENUE NORTH OF THE WEST COAST HIGHWAY INTERSECTION AND THE NORTHEAST CORNER OF INTERSECTION, BOUNDED BY WEST COAST HIGHWAY, SUPERIOR AVENUE, HOAG LOWER CAMPUS AND SUNSET VIEW PARK (PA2019-014)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by the City of Newport Beach ("Applicant") with respect to property located at the northeast corner of Superior Avenue and West Coast Highway, Assessor's Parcel Numbers (APNs) 424-041-13, 424-041-11, 424-041-12, 424-042-02, 424-042-03, and 424-041-09 ("Property"), requesting approval of a coastal development permit.
2. The Applicant seeks a coastal development permit to allow the demolition of the existing surface parking lot and the construction of a new 130-space surface parking lot, with pedestrian/bicycle concrete bridge over Superior Avenue ("Project"). The proposed bridge includes a staircase from the bridge down to the corner of Superior Avenue and West Coast Highway, and open space improvements to upper Sunset View Park. The Project would include earthwork, grading, retaining walls, and landscaping improvements. The Project includes retaining walls that exceed the 8-foot maximum height permitted by Newport Beach Municipal Code ("NBMC") Title 21 (Local Coastal Program Implementation Plan). As such, the Project includes a request for relief from the Title 21 development standard, pursuant to Section 21.52.090 (Coastal Development Review Procedures – Relief from Implementation Plan Development Standards) of the NBMC.
3. The Project site is partially located on Sunset Ridge Park, which was constructed with the authorization of a coastal development permit from the California Coastal Commission, and will therefore require a separate coastal development permit for the portions of the project site outside the City's permit authority. This coastal development permit is intended to cover the portions of the project within the City's permit authority as designated in the Local Coastal Program Implementation Plan (Title 21 of the Newport Beach Municipal Code).

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4. Except where the bridge crosses Superior Avenue, the Property is located within the PR (Parks and Recreation) Zoning District and the General Plan Land Use Element category is PR (Parks and Recreation).
5. The Property is located within the coastal zone. Except where the bridge crosses Superior Avenue, the Coastal Land Use Plan category is PR (Parks and Recreation) and the Coastal Zoning District is PR (Parks and Recreation).
6. A public hearing was held online on December 10, 2020, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.
7. The Zoning Administrator adopted Resolution No. ZA2020-082, adopting Mitigated Negative Declaration Addendum No. ND2019-002 and approving Coastal Development Permit No. CD2020-143.
8. On January 4, 2021, Mr. David Tanner filed an appeal of the Zoning Administrator's decision citing that the project does not conform to the standards of the Local Coastal Program, that the project does not conform to the public access policies of the Coastal Act, and that the environmental review for the project is inadequate.
9. A de novo telephonic public hearing was held on February 18, 2021 in the Council Chambers located at 100 Civic Center Drive, Newport Beach, due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 and 21.62 (Public Hearings) of the Newport Beach Municipal Code. The Planning Commission continued the item to a date certain, March 4, 2021, at the conclusion of the public hearing.
10. A de novo telephonic public hearing was held on March 4, 2021 in the Council Chambers located at 100 Civic Center Drive, Newport Beach, due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 and 21.62 (Public Hearings) of the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. On November 19, 2019, the City Council adopted Resolution No. 2019-102 adopting Mitigated Negative Declaration No. ND2019-002 for the Superior Avenue Pedestrian/Bicycle Bridge and Parking Lot Project, approving a Mitigation Monitoring and Reporting Program ("MMRP") that was prepared in compliance with the California

Environmental Quality Act ("CEQA") set forth in the California Public Resources Code Section 21000 *et seq.* and its implementing State regulations set forth in the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines") and City Council Policy K-3. The project reviewed under the Mitigated Negative Declaration (MND) included a new pedestrian/bicycle steel truss or concrete cast-in-place bridge approximately 260 feet long and 14 feet wide that crosses Superior Avenue, a new larger parking lot with approximately 128 parking spaces, a staircase from the bridge down to the corner of Superior Avenue and West Coast Highway, extension of upper Sunset View Park (open space, earthwork, grading, and retaining walls, landscape and irrigation improvements), and other amenities including a drop-off area, bicycle fix-it station, and a drinking water fountain. The project also proposed a possible extension of an access road through the parking lot to connect to the Hoag Memorial Hospital property ("Original Project").

2. The Project proposes minor changes to the 2019 Project, including an updated bridge design. The new bridge design is a single span concrete arch bridge that is approximately 200 feet long and 18 feet wide. The bridge will not require any mid-span piles to support the bridge. Due to the differences between the Original Project and the proposed Superior Avenue Pedestrian and Bicycle Bridge and Parking Lot Project, an addendum to the MND was prepared pursuant to Section 15162 (Subsequent EIRs and Negative Declarations) and 15164 (Addendum to an EIR or Negative Declaration) of the State CEQA Guidelines. The City retained Chambers Group to prepare the addendum because they prepared the MND for the Original Project. The MND addendum also considers cumulative projects including the potential future project to widen West Coast Highway and construct a second bridge. The MND addendum does not identify any component of the project that would result in a "potentially significant impact" on the environment per CEQA guidelines.
3. The addendum to the MND, including the MMRP, is hereby recommended for adoption by the Planning Commission. The addendum to the MND and all materials, which constitute the record upon which this decision is based, are on file with the Planning Division, City Hall, 100 Civic Center Drive, Newport Beach, California.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015(F) (Coastal Development Permits – Findings and Decision) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

A. Conforms to all applicable sections of the certified Local Coastal Program.

Facts in Support of Finding:

1. The neighborhood is developed with a variety of uses, including residential uses to the north and southwest, commercial uses to the south, Sunset Ridge Park to the west, and Hoag Hospital to the west. The proposed design, bulk, and scale of the development is

consistent with and complementary to the existing, varied neighborhood pattern of development.

2. The Property is in an area known for the potential for seismic activity. All projects are required to comply with the California Building Code (CBC) and the Building Division standards and policies. Geotechnical investigations are required to be reviewed and approved prior to the issuance of a building permit. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance, consistent with the requirements of NBMC Section 21.30.015(E) - (Local Coastal Program Implementation Plan – Property Development Standards – General Site Planning and Development Standards – Development in Shoreline Hazardous Areas).
3. The Project site is located adjacent to Sunset View Park and Sunset Ridge Park, both identified as coastal viewpoints by the Local Coastal Program maps. The bridge is designed to preserve the view lines and minimize the potential for visual obstruction. The proposed bridge does not block the public views of the coast from the higher elevations of either park. A visual impact analysis and aesthetics were reviewed as a part of the environmental review, and impacts were found to be less than significant. In addition, the Project includes expanded view opportunities from the plaza and benches at the elevated parking lot and from the bridge itself.
4. Pursuant to NBMC Section 21.35.050 (Water Quality Control - Water Quality and Hydrology Plan), because the development contains more than seventy-five (75) percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP/WQMP) was prepared by Dokken Engineering, dated September 2020. The final WQHP/WQMP will be required to be reviewed and approved by the City's Engineer Geologist prior to building permit issuance. The WQHP/WQMP includes a polluted runoff and hydrologic site characterization, treatment control, best management practices (BMPs), use of a low-impact development approach and bioretention system to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be required to comply with the approved WQHP/WQMP prior to the issuance of building permits.
5. The Project site is located less than 100 feet from a wetland along West Coast Highway. NBMC 21.30B.040.C (Local Coast Program Implementation Plan – Habitat Protection – Wetlands, Deepwater Areas, and Other Water Areas – Wetland Buffers) allows wetland buffers of less than 100 feet when a 100-foot buffer is not possible due to site-specific constraints; and the proposed buffer would be protective of the biological integrity of the wetland given the site-specific characteristics of the resource and of the type and integrity of disturbance. The Project area is confined in area and size, and a 100-foot buffer around the wetland could not be accommodated without eliminating essential components of the Project. Further, the wetlands are currently surrounded by a variety of on-going disturbances, including landscape maintenance, pedestrians and vehicular traffic. The wetlands are small in size (approximately 0.03 acre) and are isolated from any adjacent habitat having substantive ecological value as a resource. An analysis of potential impacts to the wetland is included in the MND, and specific mitigation measures have been

included to reduce the potentially significant adverse effects to a less than significant level. Therefore, the Project will have no detrimental effect on wetland coastal resources.

6. A portion of the Project is within Sunset Ridge Park which is within the California Coastal Commission's permit jurisdiction. This part of the Project includes a bridge abutment that is greater than 100 feet from a wetland along Superior Avenue, consistent with the wetland buffer requirement in NBMC Section 21.30B.040.C (Local Coastal Program Implementation Plan – Habitat Protection – Wetlands, Deepwater Areas, and Other Water Areas – Wetland Buffers). A planting area is proposed adjacent to the bridge abutment, which may encroach into the 100-foot wetland buffer area. A qualified biologist will be consulted prior to any planting within the buffer area to ensure consistency with the requirements of NBMC Section 21.30B.040.C (Local Coastal Program Implementation Plan – Habitat Protection – Wetlands, Deepwater Areas, and Other Water Areas – Wetland Buffers).
7. In accordance with NBMC Section 21.30.060.D.16 (Local Coastal Program Implementation Plan – Property Development Standards – Height Limits and Exceptions – Exceptions to Height Limits – Government Facilities), structures owned, operated, or occupied by the City or other governmental agency to provide a governmental service to the public may be allowed to exceed the height limit subject to the approval of a coastal development permit in compliance with Chapter 21.52 (Local Coastal Program Implementation Plan – Coastal Development Review Procedures) where the increase in height is necessary to accommodate design features required for the facility to function. In this case, the height of the bridge is necessary to provide adequate vertical clearance to Superior Avenue and public sidewalks, to provide a bridge with an Americans with Disabilities Act (ADA)-compliant walking surface, and to provide necessary guardrails and projectile barriers.

Finding:

- B. Conforms to the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The Project site is not located between the nearest public road and the sea or shoreline. The Project site does not currently provide vertical or lateral access to the waterfront, nor would it provide access under the proposed conditions. Vertical access to the beach is available via street ends throughout the Balboa Peninsula, and the Project will not affect the public's ability to gain access to, use, and/or view the coast.
2. The development includes the demolition of an existing 64-space flat surface public parking lot and the construction of a new 130-space surface public parking lot. The result is a net gain of 66 parking spaces, thereby increasing public access to the coast by providing additional parking opportunities in the area. Further, the open space area of

Sunset View Park will be expanded as a part of the project, providing additional public space to passively recreate and additional coastal view opportunities.

3. The Project site is located adjacent to Sunset View Park and Sunset Ridge Park, both identified as coastal viewpoints by the Local Coastal Program maps. The bridge is designed to be mindful of view lines and the potential for visual obstruction. Aesthetics were reviewed as a part of the environmental review, and impacts were found to be less than significant.

Finding:

C. The Planning Commission has considered the following:

- i. Whether or not the development is consistent with the certified Local Coastal Program to the maximum extent feasible; and*
- ii. Whether or not there are feasible alternatives that would provide greater consistency with the certified Local Coastal Program and/or that are more protective of coastal resources.*

Facts in Support of Finding:

1. With exception of the variance to the retaining wall height, the proposed development complies with and is consistent with the certified Local Coastal Program (LCP). See Facts in Support of Findings A and B above.
2. The Project includes retaining walls up to 25 feet in height. These retaining walls are necessary to support the new surface parking lot, which also serves to support the public plaza and viewing benches adjacent to the parking lot, to achieve sufficient vertical clearance under the proposed bridge, and to support the expanded passive open space at Sunset View Park. Retaining walls less than 25 feet would not support the proposed Project.
3. The Project is designed to preserve the existing view lines and minimize the potential for visual obstruction. The bridge does not block the public coastal views from either Sunset Ridge Park or Sunset View Park. Aesthetics were reviewed as a part of the environmental review, and impacts were found to be less than significant. Therefore, the Project will have no detrimental effect on coastal view resources.

Finding:

- D. The granting of the variance is necessary due to special circumstances applicable to the property, including location, shape, size, surroundings, topography, and/or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same coastal zoning district.*

Facts in Support of Finding:

1. The Project site features unique topography. The west side of Superior Avenue features an upward sloping grade that follows the incline of Superior Avenue, with a 64-space flat surface parking lot and a dirt mound near the northernmost edge of the Project site. Significant earthwork and grading are necessary to create a project site suitable for the larger, 130-space surface parking lot. Further, the grade of the site must be raised to allow the construction of the pedestrian/bicycle bridge between the subject site and the higher grade of Sunset Ridge Park. The passive recreation area at Sunset View Park is at a higher elevation than most of the Project site, and the extension of this open space area, offering public coastal views, requires raising the grade around the existing dirt mound, and retaining walls to support this feature.
2. The strict application of the retaining wall height limit results in physical hardships inconsistent with the intent and purpose of the LCP and would restrict the ability to construct a pedestrian/bicycle bridge across Superior Avenue, by preventing the bridge to be built with an appropriate slope for pedestrians and bicyclists crossing the bridge. The taller retaining walls have no detrimental effect on environmental or visual resources that the development standards are intended to protect. Section 21.52.090(B)(1) (Local Coastal Program Implementation Plan – Coastal Development Review Procedures – Relief from Implementation Plan Development Standards – Applicability – Modifications) of the NBMC specifically allows modification or waiver of development standards through approval of a coastal development for projects that will not have an adverse effect on coastal resources.
3. The PR Coastal Zoning District is intended to provide for areas appropriate for land used or proposed for active public or private recreational use. Allowed uses include both active and passive parks. Both Sunset Ridge Park and Sunset View Park are consistent with this designation and providing safe parking and access to both parks is an essential park amenity that this project helps to achieve.

Finding:

- E. The variance complies with the findings required to approve a coastal development permit in Section 21.52.015(F) (Coastal Development Permits – Findings and Decisions).*

Facts in Support of Finding:

1. The Project conforms to applicable sections of the LCP in that public coastal views and public access will not be negatively affected. The Project includes the adopting of an addendum to the previously adopted Mitigated Negative Declaration, and specific mitigation measures have been included to reduce the potentially significant adverse effects to a less than significant level. Therefore, the Project will have no detrimental effect on coastal resources.

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2. The Project site is not located between the nearest public road and the sea or shoreline. The Project site is located north of West Coast Highway, approximately 1,000 feet from the coast.
3. All Facts in Support of Findings A and B above are hereby incorporated by reference.

Finding:

F. The variance will not result in development that blocks or significantly impedes public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs.

Facts in Support of Finding:

1. The Property is located north of West Coast Highway, approximately 1,000 feet from the coast. Direct coastal access is currently provided and will continue to be provided by street ends throughout the Balboa Peninsula. The Project includes the demolition of an existing 64-space flat surface parking lot and the construction of a new 130-space surface parking lot. This larger public parking area will provide increased public access to the nearby coast as well as to both Sunset Ridge Park and Sunset View Park. There are no public trails or coastal bluffs located on the Project site. The purpose of this Project is to enhance public access to Sunset Ridge Park, provide additional public view opportunities, and increase public parking and access to parks and beaches.
2. Facts in Support of Finding B.1 and B.2 are hereby incorporated by reference.

Finding:

G. The variance will not result in development that blocks or significantly impairs public views to and along the sea or shoreline or to coastal bluffs and other scenic coastal areas.

Fact in Support of Finding:

1. Facts in Support of Findings A.3 and B.3 are hereby incorporated by reference.

Finding:

H. The variance will not result in development that has an adverse effect, either individually or cumulatively, on coastal resources, including wetlands, sensitive habitat, vegetation, or wildlife species.

Facts in Support of Finding:

1. The Project site currently contains a surface parking lot, developed landscaping, a dirt mound, and some undeveloped open space. An analysis of potential impacts to biological resources is included in the MND, and specific mitigation measures have been included to

reduce the potentially significant adverse effects to a less than significant level. Therefore, the Project will have no detrimental effect on coastal resources.

2. Facts in Support of Finding A.5 and A.6 are hereby incorporated by reference.
3. A view simulation analyzing the potential cumulative view impacts of a potential future City project to widen West Coast Highway and construct a second pedestrian bridge is included in the Addendum to the MND and concludes that the second bridge, based on location, is not anticipated to block views of the ocean individually or cumulatively.

Finding:

- 1. The granting of the variance will not be contrary to, or in conflict with, the purpose of this Implementation Plan, nor to the applicable policies of the certified Local Coastal Program.*

Facts in Support of Finding:

1. Approval of the coastal development permit will not be contrary to the applicable policies of the City's Coastal Land Use Plan intended to protect coastal resources. Policy 4.4.1-6 of the Local Coastal Program states that public coastal views must be protected from several roadway segments in the City, including the segment of Superior Avenue abutting the project, which is designated as a Coastal View Road. The increased height of the retaining walls supporting the project does not impede views of the coast from Superior Avenue.
2. Approval of the coastal development permit will not be contrary to Policies 4.4.1-2 and 4.4.1-7 of the Local Coastal Program, which state that new development, including landscaping, should be designed and sited so as to minimize visual impacts to public coastal views, and to frame and accent public coastal views. The retaining walls and the development they support will include drought-tolerant landscaping which will maintain the aesthetic character of the area.
3. The granting of the coastal development permit to allow the increased retaining wall height is consistent with NBMC Section 21.52.090 (Local Coastal Program Implementation Plan – Coastal Development Review Procedures – Relief from Implementation Plan Development Standards), which provides for relief from development standards for projects that will have no detrimental effect on environmental or visual coastal resources.

In accordance with Section 21.30.060(C)(3) (Local Coastal Program Implementation Plan – Property Development Standards – Height Limits and Exceptions – Increase in Height Limits – Required Findings) of the NBMC for increased height limits, the base height limit for nonresidential and mixed-use structures with flat roofs is twenty-six (26) feet and the base height limit for structures with sloped roofs is thirty-one (31) feet. The height of a nonresidential structure within the Shoreline Height Limit Area may be increased up to a maximum of thirty-five (35) feet with a flat roof or forty (40) feet with the approval of a Coastal Development Permit. In this case, the Applicant requests that height be increased to a maximum of 32 feet for the bridge, which is regulated as a flat structure. In accordance with Section 21.30.060(C)(3) (Local

Coastal Program Implementation Plan – Property Development Standards - Height Limits and Exceptions – Increase in Height Limits – Required Findings) of the NBMC for increased height limits, the following findings and facts in support of such findings are set forth:

Finding:

J. The project is sited and designed to protect views to and along the ocean and scenic coastal areas; and

Fact in Support of Finding:

1. Facts in Support of Findings A.3 and B.3 are hereby incorporated by reference.

Finding:

K. The project is sited and designed to minimize visual impacts and be visually compatible with the character of surrounding areas; and

Facts in Support of Finding:

1. Facts in Support of Findings A.3 and B.3 are hereby incorporated by reference.
2. The bridge design is a single span concrete arch, which is specifically designed to complement and be compatible with the surrounding development. The single span eliminates the need for a mid-span support, which otherwise would have required a support in a median of Superior Avenue. The bridge is further designed without any roof or shade cover, which keeps the profile of the structure low in this scenic area.
3. The Project does not affect existing public views and does not detract from the character of the area. The overall Project height is below the maximum permitted with approval of a coastal development permit. The proposed bridge spans across Superior Avenue, which slopes steeply up to the north. Properties to the north of the Project site are developed with finished grades higher than the top of the proposed bridge, and the bridge will not appear out of scale or character with surrounding development. The bridge also serves to visually connect the parking for Sunset Ridge Park, enhancing public access to the park.
4. The retaining walls facing West Coast Highway will be visually softened with vines and trees to vertically break up the massing of the walls.

Finding:

L. Where feasible, the project will restore and enhance visual quality in visually degraded areas.

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Fact in Support of Finding:

1. The Property is currently developed as a surface parking lot with developed landscaping, a dirt mound, and some undeveloped open space. The Project has been designed to harmonize with and enhance the surrounding development by maintaining a low profile, avoiding a mid-span support for the bridge, and including drought-tolerant landscaping throughout the project.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby adopts the Mitigated Negative Declaration Addendum No. ND2019-002 (SCH No. 2019099074), as depicted in Exhibit "A," which consists of the MND Addendum, Appendices, and Adopted MND.
2. The Planning Commission of the City of Newport Beach hereby approves Coastal Development Permit No. CD2020-143, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 21 (Local Coastal Program Implementation Plan), of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 4th DAY OF MARCH 2021.

AYES: Ellmore, Kleiman, Koetting, Lowrey, and Rosene

NOES:

ABSTAIN: Weigand

ABSENT: Klaustermeier

BY: 
Erik Weigand, Chairman

BY: 
Lauren Kleiman, Secretary

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EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan and elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans shall require separate review by the Planning Division and may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. Prior to building permit issuance, the scenic easement located on Sunset Ridge Park shall be modified or removed.
4. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
5. The Applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
6. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
7. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle

maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

8. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
9. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
10. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
11. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
12. This Coastal Development Permit may be modified or revoked by the Planning Commission if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
13. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
14. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
15. Coastal Development Permit No. CD2020-143 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Local Coastal Program Implementation Plan – Permit Implementation, Time Limits, and Extensions - Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
16. The Applicant shall comply with all mitigation measures identified in the Mitigation Monitoring and Reporting Program (MMRP).

Exhibit 7 – Appeal

Begins on Next Page

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD., SUITE 300
LONG BEACH, CA 90802
(562) 590-5071
SOUTHCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: South Coast

Appeal Number: _____

Date Filed: _____

Appellant Name(s): _____

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review [the appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the South Coast district office, the email address is SouthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: Environmental & Regulatory Specialists, Inc. on behalf of Appellants

Mailing address: 223 62nd Street, Newport Beach

Phone number: 949 646-8958

Email address: dave@earsi.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☐ Other

Describe: I, David Tanner appealed the City Zoning Administrator's CEQA and CDP approval to the Planning Commission.

All other appellants to this Coastal Commission appeal submitted comments to the City.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: The City of Newport Beach charges a fee to appeal this Planning Commission decision to the City Council.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision

Page 3

2. Local CDP decision being appealed²

Local government name: City of Newport Beach

Local government approval body: Planning Commision

Local government CDP application number: CD2020-014

Local government CDP decision: ☒ CDP approval ☐ CDP denial³

Date of local government CDP decision: March 4, 2021

Please identify the location and description of the development that was approved or denied by the local government.

Describe: Intersection of Superior Avenue and West Coast Highway, City of Newport Beach, CA

See attached supplemental Information for a description of the development.

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

Appeal of local CDP decision

Page 4

3. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☒ Interested persons identified and provided on a separate attached sheet

4. Grounds for this appeal⁴

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: See attached supplemental information for a detailed description of the grounds for this appeal.

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

Appeal of local CDP decision

Page 5

5. Appellant certification⁵

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name See attached Appellant certification forms

See attached

Signature

Date of Signature See attached

5. Representative authorization⁶

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name _____

CDP Application or Appeal Number _____

Lead Representative

Name _____

Title _____

Street Address. _____

City _____

State, Zip _____

Email Address _____

Daytime Phone _____

Your Signature _____

Date of Signature _____

Additional Representatives (as necessary)

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature _____

Date of Signature _____

April 5, 2021

Mr. Steve Padilla, Chair
Members of the California Coastal Commission
California Coastal Commission
South Coast District Office
301 E. Ocean Blvd., Suite 300
Long Beach, Ca 90802
(562) 590-5071
SOUTHCOAST@COASTAL.CA.GO

Subject: Appeal City of Newport Beach Coastal Development Permit No. CD2020-143
Superior Avenue Pedestrian and Bicycle Bridge, Parking Lot and Recreation Area Project
(PA2019-014)

APPEAL SUPPLEMENTAL INFORMATION

Chairman Padilla,

Pursuant to Section 30603 of the Coastal Act, the Appellants file this appeal of adoption of City of Newport Beach Resolution No. PC2021-005. A resolution of the Planning Commission of the City of Newport Beach, California, upholding the decision of the Zoning Administrator adopting mitigated negative declaration addendum No. ND2019-002 and approving Coastal Development Permit No. CD2020-143 for the demolition of an existing surface parking lot and the construction of a new pedestrian/bicycle bridge, surface parking lot, and improvements to open space and granting relief from the development standards of the Local Coastal Program Implementation Plan at Superior Avenue north of the West Coast Highway intersection and the northeast corner of intersection, bounded by West Coast Highway, Superior Avenue, Hoag Lower Campus and Sunset View Park (PA2019-014)

1. Appellant Information

Name: "Superior Bridge Appellants"

Primary point of contact for "Superior Bridge Appellants"

David J. Tanner, President
Environmental & Regulatory Specialists, Inc.
2232 62nd Street
Newport Beach, CA 92663
dave@earsi.com

(see attached sheets for individual Appellants and their Certification forms)

The Superior Bridge Appellants submitted written comments to the City and/or provided oral testimony to the Zoning Administrator, and/or Planning Commission at public hearings. Copies of written comments and oral testimony are provided on the City of Newport Beach website:

https://ecms.newportbeachca.gov/Web/0/edoc/2667908/4.0_Appeal%20of%20the%20Superior%20Avenue%20Pedestrian%20and%20Bicycle%20Bridge,%20Parking%20Lot%20and%20Recreation%20Area%20Project_PA2019-014.pdf

The Project was heard by the Zoning Administrator on December 10, 2020. On January 4, 2021, Mr. Tanner filed an appeal of the Zoning Administrator's decision to the Planning Commission. The Planning Commission conducted a de novo public hearing on March 4, 2021 approving the Project subject Staff recommendations and conditions (See City of Newport Beach website). The City of Newport Beach charges a fee to appeal the Coastal Development Permit to the City Council. The appellant(s) elected to appeal directly to the Coastal Commission.

2. Local CDP decision being appealed

City of Newport Beach Coastal Development Permit No. CD2020-143 & Mitigated Negative Declaration Addendum No. ND2019-002.

Location and Description

Location

The project site is located at the northern (inland) side of the intersection of West Coast Highway (WCH) and Superior Avenue, approximately 1,000 feet from the coastline, City of Newport Beach, California.

Description

The City of Newport Beach action on Local CDP No. CD2020-143 authorized the City of Newport Beach (Applicant) to remove the existing 64 space surface parking lot and cement walkway connecting the parking lot to the sidewalk on WCH at the northeast corner of the intersection of Superior and WCH. To grade into the face of the coastal bluff to construction a new 130-space surface parking lot, open space improvements to upper Sunset View Park, and to construct a pedestrian/bicycle concrete bridge over Superior Avenue. The Bridge will connect the new parking lot with the existing Sunset Ridge Park. The proposed project includes construction of a staircase from the sidewalk at the northeast corner of Superior Avenue and WCH to the new parking lot/bridge. The project includes grading, hardscape, drainage and landscape improvements.

The project proposes approximately 33,000 cubic yards of grading (cut) into the coastal bluff face to create the new parking lot at the elevation to support the bridge. The project requires the construction of retaining walls to a maximum height of 25-feet which exceed the 8-foot maximum height permitted by Newport Beach Municipal Code (NBMC) Title 21 (Local Coastal Program Implementation Plan). As such, the project includes a request for relief from Title 21 development standard, pursuant to NBMC Section 21.52.090. The project includes the export of 10,500 cubic yards of earth material from the bluff face to an unidentified location off-site. The pedestrian bridge, identified as a government facility by the City, has a maximum height of 35-feet which exceeds the 26-foot maximum height permitted by the Municipal Code.

On August 25, 2020, City Council approved a revised single-span concrete bridge conceptual design rather than the original multi-span design. To remain consistent with CEQA requirements and due to

this design change, the City prepared an Addendum to the MND to evaluate potential impacts of the change.

The project site is partially located on Sunset Ridge Park, which is subject to review and approval by the California Coastal Commission (CCC) due to prior permitting of the park. Grading for and construction of the western bridge abutment and a portion of the bridge will occur within the boundary of Sunset Ridge Park. The City submitted a separate application to amend the existing CDP with the CCC for this portion of the project on November 5, 2020. The CCC determined this application to be incomplete on December 4, 2020.

Public Controversy

This Project has generated significant public controversy. The main areas of public controversy center around the widening of West Coast Highway, the project's visual/land form impact, and the appropriate use of public funds given the City's other urgent needs. The public believed the whole of the project the City Council approved on November 19, 2019 (a CEQA MND evaluating the concept design for the project) would be submitted to the Coastal Commission for issuance of a CDP pursuant to LCP Section 21.52.015.1 (B) "Projects Bisected by City and Coastal Commission Jurisdiction" for approval of a Coastal Development Permit.

3. Identification of interested persons

City of Newport Beach:

Chelsea Crager, Associate Planner
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660
Phone: (949) 644-3227
ccrager@newportbeachca.gov

Andy Tran, Senior Civil Engineer
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660
Phone: (949) 644-3315
atran@newportbeachca.gov

4. Grounds for this appeal

There are many grounds for appeal. Below is a summary of some of the most obvious.

Summary

The City's conclusion that the development is consistent with the provisions of the LCP was not adequately supported by documents in the record file or the City's findings as stated in Local CDP No. CD2020-143. The City of Newport Beach LCP was certified on January 30, 2017. Therefore, the standard of review for this appeal is the certified LCP.

Issues raised by this appeal are many and are overlapping and include development within an easement in favor of the State for scenic view and open space purposes; failure to protect visual resources; failure to minimize landform alteration; improperly claiming the project is a Government Facility (to allow exceptions to height standards); development within 100 feet of two wetland areas; inadequate environmental analysis with which to base LCP decisions; failure to provide data to justify the project need (need for larger parking lot to serve the parks); and piecemealing the project to avoid addressing the whole of the action which significantly influenced the LCP consistency determinations and CDP findings.

The City failed to consider development within a Scenic View and Open Space Easement

A scenic view and open space easement in favor of the State exists on approximately 40% of the southern portion of the Sunset Ridge Park. Development of the Superior bridge is proposed within the easement. Said easement prohibits placing permanent structures or pavement within the easement area. The bridge and its abutment exceed the maximum permitted height by 6 feet! The project will result in significant land use and visual impacts which would have negatively impacted the LCP consistency determination and CDP findings had the easement been acknowledged and evaluated.

The City action fails to protect scenic and visual qualities of coastal areas

As the project has been designed and approved by the City, the development would significantly alter the bluff face, which has been previously altered by construction of Sunset Ridge Park, Superior Avenue, Sunset View Park and an existing 64-space surface parking lot (constructed by Caltrans as mitigation for prior widening of Pacific Coast Highway).

Coastal Act 30251 requires as follows:

“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 Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.”

The City LCP does not contain caveats such as “where feasible” for protection of views to and along the ocean and scenic coastal areas.

The City view analysis focused on the visual impact of Superior Bridge from the uppermost elevations of Sunset View Park and Sunset Ridge Park. There was limited view analysis of the proposed retaining walls. The City failed to acknowledge views from West Coast Highway inland as worthy of protection. There is not sufficient evidence that the project would protect ocean views/scenic resources from the other locations within Sunset View Park, Sunset Ridge Park and Superior Avenue, a designated Coastal View Road. Despite public opinion that the project's visual impact would be

significant, the City determined the project would have a less than significant impact on visual resources without discussion of the weight of public opinion. The City prepared view rendering from WCH looking inland obstructs the view of Sunset View Park. The scale of the proposed bridge, height of the fill and vertical retaining wall for the new parking lot can be seen by comparing the size of the pedestrians in the rendering to the size of these improvements. The City provided the following statement in the March 4th Planning Commission Staff Report:

“The residential structures to the north of the project and Sunset Ridge Park to the west of the project are developed at higher elevations than the proposed bridge; therefore, the proposed bridge does not appear out of scale with the surrounding development.”

The City did not appropriately apply LUP Policies 4.4.1-1 through 4.4.1-3 which raises a substantial issue with regard to consistency with the certified LCP.

The City action fails to minimize landform alteration and provide design alternatives

The proposal to construct a bridge which exceeds the maximum building height, a parking lot that requires extensive grading into a coastal bluff face, new retaining walls exceeding the maximum permitted height and export of earth material from the bluff face is not supported by a finding that the landform alteration is the minimum amount necessary to support the development, nor does it analyze design alternatives that do not require the bridge and parking lot to be constructed within 100 feet of two wetlands.

The City incorrectly asserts the Project is a “Government Facility”

As described later in these comments the project is a government public works project, not a “Government Facility”. Based on state definitions, not all public works projects are “Governments Facilities”. Using the City’s logic, (Response to Comments¹ #34) all public works projects would be Government Facilities.

The City action fails to provide adequate wetland buffers

Under LUP policy 4.2.2-3, a minimum 100-foot buffer is required around a wetland for new development unless a proposed development site has site-specific constraints that preclude the provision of a 100-foot buffer or it can be demonstrated that a buffer width of less than 100 feet can protect the wetland. The staff report and the applicant’s biologist report do not specify whether there are site-specific constraints that would prevent the applicant from providing the appropriate buffer, nor do they adequately justify why a 100- foot buffer is not required for protection these wetlands. Wetlands are a rare coastal resource in this region, extra care must be given to protect the wetlands from further degradation. It is possible that a reduced wetland buffer may be approved for this site and still protect biological resources consistent with the LCP, but the City-approved CDP does not

¹ The reference to “**Response to Comments**” herein refers to City of Newport Beach written response to comments from comments received from Mr. David Tanner contained in the March 4, 2021 Planning Commission Staff Report. Attachment No. PC 7

include adequate findings to justify less than a 100-foot buffer or identify alternatives that would allow for a greater buffer. The City did not appropriately apply Section 4.2.2-3 to this project which raises a substantial issue with regard to consistency with the certified LCP.

The City failed to address LCP environmental concerns

The City's conclusion that the project will result in less than significant environmental impact to coastal resources was not adequately supported by documents in the record file or the City's findings. The City conclusion is based on CEQA and does not fully address the environmental concerns of the Coastal Act. CEQA policies are not the standard of review for a Coastal Development Permit. For example, had the City acknowledged any one of the following: the whole of the action; the City Council August 25, 2020 conceptual Superior Avenue bridge design; the existing scenic view and open space easement prohibiting structures and paving within Sunset Ridge Park; the full extent of the project's visual impact; the fact that LUP Policy 4.4.1-1: requires the protection of coastal views; the project's impact to a historically designated tree (protected by the City's G-Series Policies); or the removal of convenient and safe coastal access routes (sidewalks and crosswalks), the CEQA/Coastal Act environmental analysis would have concluded the project would result in significant adverse environmental impacts, any one of which would disqualify the project from the ability for the City to grant itself an increase in the maximum height of the pedestrian bridge and retaining walls. The project does not meet the following design standards:

Standards 21.30.060 "Height Limits and Exceptions" In cases where the exception to a height limit requires the approval of a coastal development permit, the review authority may approve a coastal development permit to allow an increase in the height of a structure above the base height limit as described below only after first making all of the findings in subsection (C)(3) of this section, in addition to the findings required in Section 21.52.015(F).

Subsection (C)(3)

3. Required Findings. The review authority may approve a coastal development permit to allow an increase in the height of a structure above the base height limit only after first making all of the following findings in addition to the findings required in Section 21.52.015(F):
 - a. The project is sited and designed to protect public views to and along the ocean and scenic coastal areas; and
 - b. The project is sited and designed to minimize visual impacts and be visually compatible with the character of surrounding areas; and
 - c. Where feasible, the project will restore and enhance visual quality in visually degraded areas.

Standard 21.52.090 "Relief from Implementation Plan Development Standards" (A) provide relief from the development standards of this Implementation Plan when so doing is consistent with the purposes of the certified Local Coastal Program and will not have an adverse effect, either individually or cumulatively, on coastal resources.

The City description of cumulative impacts to coastal resources is not sufficient to determine if additional impacts to coastal resources will or will not occur. The City did not appropriately comply with Standard 21.50.070 (B) "Environmental Review" which did not provide the factual basis for the City to determine the project's compliance with Standard 21.52.090 "Relief from Implementation Plan Development Standards".

The City failed to provide data to justify the need for the project

"The primary goals of this project are to improve safety and access to Sunset Ridge Park and to increase parking availability"

Sunset Ridge Park - The 13.7-acre public park occupies the northwest corner of the intersection of Pacific Coast Highway and Superior Avenue. The Sunset Ridge Park includes a baseball diamond that overlaps in area with two soccer fields, a children's playground, a grass warm-up field, pedestrian paths around the perimeter of the park, view areas, a shade structure, and a restroom/storage facility.

The March 4th Planning Commission Staff Report response to comments states the following"

Response to Comments #68

"The City does not currently program Sunset Ridge Park to its capacity due to insufficient parking for organized sporting events. With the completion of the larger parking lot, the City will be able to better utilize the park for sporting events. Sunset Ridge Park is an active sports park with one baseball field and two soccer fields. During a typical weekend while organized sports is in season, 8 to 10 teams may be scheduled to use the fields. Assuming 30 participants and spectators per team, there can be 300 individuals at Sunset Ridge Park (not all at the same time) in one day. This estimate exceeds 16,000 visitors per year."

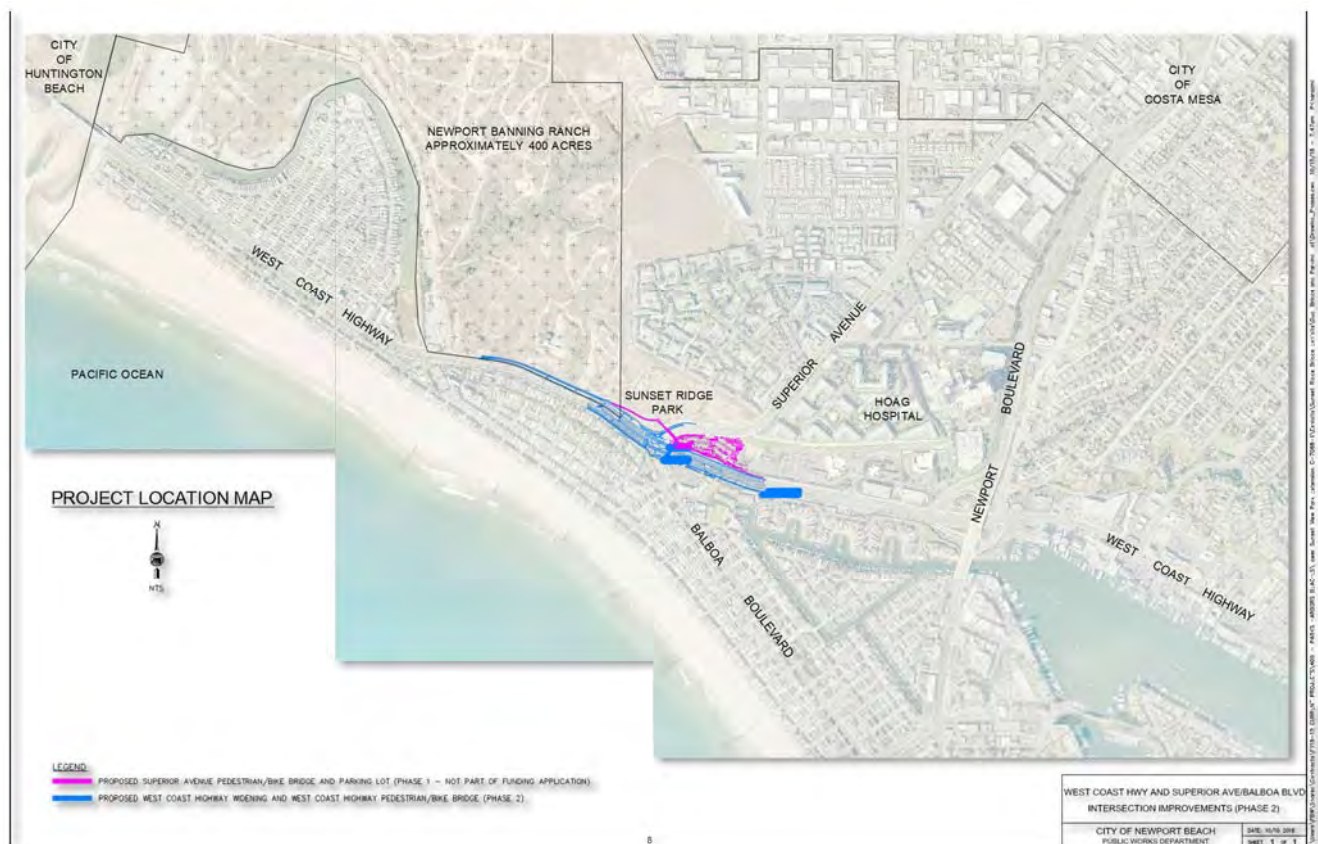
The above statement describes the City's future goal for the park. It has nothing to do with reality! It does not address the existing use or parking shortage of Sunset Ridge Park and fails to state the sports fields are overlapping. Perhaps the City should consider ridesharing or meeting at a schoolyard and using a shuttle to reduce VMT/GHG emissions and efficiently use existing parking.

The LCP requires the applicant justify a "Demand for Access and Recreation" (LCP Section 21.30A.040, B, 2). There is no evidence in the record that the city prepared a Demand Access and Recreation analysis to support the Phase 1 project assertion that "Visitors to Sunset Ridge Park currently use the existing smaller parking lot located south of Sunset View Park and cross Superior Avenue via an at -grade crosswalk" at WCH, or more importantly, there is a shortage of parking for park users. There is no evidence in the record to support the assertion the enlargement of the parking lot and addition of a bicycle and pedestrian bridge over Superior Avenue will significantly increase use of the Sunset Ridge Park or improve safety. This is simply a goal the City wishes to achieve. The LCP requires the City demonstrate there is a demand for access and recreation, not just claim a parking problem contributes to their perception of an underutilized park to justify the impact to coastal resources caused by the project.

Similarly, there is no evidence in the record that the existing bicycle and pedestrian crossing of Superior Avenue is unsafe and that there are no alternatives to the project such as traffic calming measures which would be less impactful to coastal resources to achieve the project's goal of improving bicycle and pedestrian safety.

The City fails to acknowledge the project is part of a larger project for compliance with CEQA and LCP/Coastal Development Permit review

The project is a larger project initiated by the City in 2014 to widen and increase the capacity of the intersection of Superior Avenue and WCH. The City later divided the project into 2 phases allowing greater opportunities to obtain public funding and to attempt to avoid having to discuss the whole of the project and its true intent at one time. Below is an exhibit from the October 2018 OCTA Comprehensive Transportation Funding Program (CTFP), Regional Capacity Program – Intersection Capacity Enhancement grant application showing both phases of the project in different colors. The application contains a detailed analysis, cost estimate and project timeline. Later in these comments is an expanded view of the detailed improvements. The application is submitted as an attachment to this appeal.



The City failed to disclose and analyze the whole of the action as required by CEQA allowing the City to use its powers to deny reasonably foreseeable environmental impacts caused by the “whole” of the action. Thereby, manipulating CEQA conclusions and limiting the scope of the City's LCP consistency determinations and CDP findings to its benefit.

The City proposes to construct the WCH Bridge Project (Phase 2 of the project) as a separate and independent project administered separately. On May 11, 2020 the OCTA approved the City's application under the Comprehensive Transportation Funding Program (funded by California Measure M2 funds) for \$780,000. As part of this grant program, a minimum of 35 percent local agency funding match is required (\$420,000). On August 25, 2020 the City Council approved contracts for engineering and environmental services. The WCH Bridge project is in the design stage. Phase 2 involves widening West Coast Highway to increase vehicular capacity, construct a second pedestrian bridge across West Coast Highway and remove the existing sidewalks and pedestrian/bicycle crosswalks at Superior Avenue and West Coast Highway. Removing the sidewalks and crosswalks will not only remove 2 convenient coastal access routes, it will force pedestrians to climb up and down stairs to use the pedestrian bridges to cross Superior Avenue and WCH. The removal of the crosswalks will allow the City/Caltrans to remove the existing traffic delay at the intersection caused by the pedestrian signal phase, increasing the vehicular capacity of the intersection. The removal of the sidewalks will allow Caltrans to widen WCH. The City has retained the same engineering and environmental firms used in Phase 1 for Phase 2. The engineering firm is preparing detailed improvement plans, the environmental firm is preparing an Environmental Impact Report for Phase 2. The August 25, 2020 City Council Staff Report states:

“The design of the Superior Avenue Bridge project will account for the proposed improvements of the WCH Bridge project. Because of the proximity of these two projects, they will need to be closely coordinated.”

The March 4, 2021 Planning Commission Staff Report states:

“On August 25, 2020, City Council approved a revised single-span concrete bridge conceptual design rather than the original multi-span design. To remain consistent with CEQA requirements and due to this design change, the City prepared an Addendum to the MND to evaluate potential impacts of the change.”

On August 25, 2020 the City Council did approve an update to the single-span concrete bridge conceptual design rather than the original conceptual multi-span design. A copy of this updated bridge design is attached to the August 25, 2020 Staff Report and reproduced below.

**August 25, 2020 City Council Approved
Updated Bridge Design**



Superior Avenue Concrete Arch Pedestrian Bridge- View from West Coast Highway

12-59

As you can be seen there is no staircase from the West Coast Highway sidewalk to the top of the Superior Avenue bridge. A staircase was proposed as part of the approved conceptual design. This rendering is consistent with the text in the Staff Report for the August 25, 2020 City Council hearing.

However, the October 2020 CEQA Addendum adopted by the Zoning Administrator and Planning Commission did not address the August 25, 2020 City Council approved single-span concrete bridge design. The Addendum analyzed a different updated bridge design. The Addendum included a bridge design with a pedestrian staircase at the West Coast Highway sidewalk to the top of the Superior Avenue bridge. This bridge design is provided below. Note the proposed staircase does not have a ramp for handicapped, bicyclists or beach goers with wagons, etc.

**October 2020 CEQA Addendum
"Figure 2-3 – Updated Bridge Design"**



The August 25, 2020 City Council approved conceptual design removes the pedestrian staircase which is no longer needed when Phase 1 and 2 are combined. City Staff has known the ultimate design since 2018 when the preliminary engineering plans were prepared for the grant applications. The Staff Report for the August 25, 2020 City Council hearing contained the following statement:

“At the time that the conceptual design for the Superior Avenue Bridge project was approved, staff was not actively working on the WCH Bridge project. A staircase from the West Coast Highway sidewalk to the top of the Superior Avenue bridge was proposed as part of the approved conceptual design. This staircase would eventually need to be removed to accommodate the widening and realignment of West Coast Highway. Since funding for the design of the WCH Bridge project is now available, staff recommends eliminating the temporary staircase from the Superior Avenue Bridge project. In the interim, the general public will be able to access the parking lot and Superior Avenue bridge via the existing sidewalks.” (Pg. 12-4)

The reference to “At the time that the conceptual design for the Superior Avenue Bridge project was approved” refers to the November 2019 City Council conceptual approval. Note, neither rendering show removal of the existing trees which will occur as part of the parking lot demolition and construction. The trees are retained in the renderings.

The CEQA Addendum provides another exhibit which showed the location of the WCH bridge. It connects to the new parking lot on the northside of WCH at the location of the staircase. As part of Phase 2, the northern abutment for the WCH bridge will occupy the location of the staircase. Therefore, it appears Staff's logic to the City Council is there is no need to build the staircase if it is just going to be torn down. The rendering with the bridge/staircase and the incorrect project description/scope of CEQA/LCP/CDP analysis was made known to the City in written and oral comments. Staff replied to the written comment with the following written responses on March 4, 2021 as follows:

Response to Comments #80

"During the August 25 2020, City Council meeting, City Council discussed the inclusion or deletion of the staircase from the bridge to the West Coast Highway sidewalk. Because of the uncertainty of the WCH Project, **City Council recommended staff to include this staircase** as part of the Superior Avenue Project."

Response to Comments #228

"During the August 25, 2020, City Council meeting, **City Council directed staff to include the staircase** with the Superior Avenue Project due to the uncertainty of the WCH Project."

The WCH Bridge Project (Phase 2) was item No. 12 on the August 25, 2020 City Council consent calendar. There were no public comments on item No. 12 and the consent calendar was approved by the City Council without discussion. **The City's written responses to comment #80 & #228 are lies.** The link to the City website containing the audio/video recording of the August 25, 2020 City Council hearing is provided below (see consent calendar starting at 2:09:50/4:50:47) https://newportbeach.granicus.com/mediaplayer.php?clip_id=3543

Why is this miss-statement important? By describing and analyzing a different project design (one with a staircase) the environmental effects and conclusions are different. In this case, the effects are much less significant and support the City ascertain Phase 1 and Phase 2 are separate and independent projects being administered separately. Alternatively, in analyzing the bridge design approved by the City Council on August 25, 2020, Phase 1 and Phase 2 projects are linked and must be evaluated as a whole. Because of potentially significant environmental impacts associated with Phase 2, the City is preparing an Environmental Impact Report for Phase 2. The negative environmental impacts associated with Phase 2 will negatively impact the LCP Implementation Plan findings for the Phase 1 project. Therefore, the City must avoid considering the "whole of the action" at all costs. This denial of a reasonably foreseeable link between the 2 project phases is rampant throughout the City's statements.

The project is not uncertain for purposes of CEQA and LCP compliance. The City had prepared the intersection engineering design, description and cost estimate included in the grant applications in 2018 and again in the successful application submitted to OCTA on October 23, 2019. The City had received notice \$780,000 in grant funding had been approved by May 2020. The City Council approved the updated design for the Superior Bridge on August 25, 2020 without the staircase and hired the same consulting team working on Phase 1 to work on Phase 2. The environmental consultant is preparing an Environmental Impact Report for Phase 2 indicating the City's awareness in August

2020 the project will have the potential for one or more significant adverse environmental impacts. In an effort to separate the 2 Phases of the project, justify the use of a CEQA Addendum avoid project delays and potential project denial, the October 2020 CEQA Addendum contained the following statement:

“As shown in Figure 4-4: West Coast Highway Bridge Rendering, this second bridge is not anticipated to block views of the ocean. However, it is unknown at this time when this Project would be constructed. Similar to other cumulative projects, this project would be considered a discretionary action that would trigger CEQA and it would be required to undergo project specific environmental review similar to the proposed Project, prior to construction. Impacts would be less than significant, and no major revisions to the 2019 MND would be required.”

This is important because 1) CEQA requires the analysis address the “whole of the action” (Phases 1 & 2) which it does not do; and 2) The Local Coastal Program requires the applicant to justify the project will not have an adverse effect, either individually or cumulatively, on coastal resources. This analysis has not been done by the City and therefore, the conclusion that “Impacts would be less than significant” is not supported by data.

Phase 2 is not an independent project as claimed by the City. Phase 2 is a reasonably foreseeable consequence of the initial project and Phase 2 will be significant in that it will likely change the scope or nature of the initial project or its environmental effects (*Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396; see also Pub. Resources Code, § 21065 [defining “project”].) Because these two circumstances are present in this case, the two proposals are the same “project” and the lead agency must analyze them as one.

Even the City agrees in their response to comments #121 “... Thus, if an activity or facility is necessary for the operation of a project, or necessary to achieve the project objectives, or a reasonably foreseeable consequence of approving the project, then it should be considered as part of the whole project.”

What more is needed? Is Phase 2 not a reasonably foreseeable consequence of approving the project? Why is the City taking this position?

The City March 4, 2021 Planning Commission Staff Report states:

“The Superior Avenue Pedestrian and Bicycle Bridge, Parking Lot and Recreation Area Project is a stand-alone project that has independent utility and could be constructed to meet the project objectives without any future projects. Additionally, the West Coast Highway Intersection Widening and Pedestrian Bridge Project also has its own independent utility and would not require the Superior Avenue Pedestrian and Bicycle Bridge and Parking Lot Project to be complete in order to be constructed. Further, at the time that the 2019 MND for the Superior Avenue Pedestrian and Bicycle Bridge, Parking Lot and Recreation Area Project was written and completed, the West Coast Highway Intersection Widening and Pedestrian Bridge Project was not a reasonably foreseeable future project, as funding had not been approved.”

This is not true!

Phase 2 is not an independent project and is reasonably foreseeable.

Phase 2 improvements require the construction of the Superior Bicycle and Pedestrian Bridge before the Superior Avenue crosswalk can be removed.

Phase 2 was certainly reasonably foreseeable following receipt of the \$780,000 grant funding in May 2020 and even more so, following the City Council August 25, 2020 approval of the updated bridge design without the staircase and the initiation of contracts for detailed design and environmental analysis. These actions occurred well prior to the publication of the environmental analysis (October 2020) and well before the December 10, 2020 Zoning Administrators hearing. Even if one agrees with the City's explanation that Phase 2 "was not reasonably foreseeable at the time the 2019 MND was prepared" (source: response to comments #33), circumstances had changed prior to the publication in October 2020 of the CEQA Addendum to the 2019 MND requiring preparation of a different type of CEQA document (EIR). Regardless of the CEQA documentation, the City has the obligation to analyze cumulative impacts as a requirement of the LCP/CDP and the City failed to adequately do so.

The City failed to evaluate the project's impact to bicyclists and pedestrians crossing WCH

The Appellant's questioned the new larger parking lot's impact on the safety of bicyclists and pedestrians using the new parking to cross WCH. The City did not analyze this in the project CEQA documentation or discuss the topic in the CDP material. It seemed reasonable if crossing Superior Avenue via the existing crosswalk is not safe, then crossing WCH via the existing crosswalk is also not safe. In fact, more bicyclists and pedestrians use the WCH crosswalk to cross WCH than the Superior Avenue crosswalk to cross Superior Avenue. It seems reasonable the new larger parking lot will increase the number of bicyclists and pedestrians crossing WCH. The City responded with the following responses related to the topic:

Response to Comments #33

"To provide additional parking spaces to better serve both passive uses and organized sporting events (mostly youth) at Sunset Ridge Park in an area where parking is limited."

Response to Comments #69

"Visitors to Sunset Ridge Park as well as the nearby beach both use the existing parking lot. Sporting event participants will cross Superior Avenue to access Sunset Ridge Park while visitors to the beach will cross West Coast Highway to access the beach."

Response to Comments #72

"Since the pedestrian/bicycle bridge provides access from the expanded parking lot to Sunset Ridge Park, and since the parking lot expansion is intended to provide additional spaces for users of Sunset Ridge Park and Sunset View Park, no additional traffic at the at-grade crosswalks of West Coast Highway is anticipated. Overall, the addition of the pedestrian/bicycle bridge would reduce hazards for pedestrians and bicycles that would have otherwise crossed at-grade across Superior Avenue."

Response to Comments #75

“The City notes the General Plan’s vision to reduce traffic citywide; in fact, the purpose of the Superior Avenue Project is intended to provide increased parking for users of Sunset Ridge Park so that organized sports and passive recreation can be accessed by nearby residents.”

Response to Comments #152

“The development includes the demolition of an existing 64-space flat surface public parking lot and the construction of a new 130-space surface public parking lot. The result is a net gain of 66 parking spaces, thereby increasing public access to the coast by providing additional parking opportunities in the area. Further, the open space area of Sunset View Park will be expanded as a part of the project, providing additional public space to passively recreate and additional coastal view opportunities.”

The City cannot have it both ways! Honesty is important. The City stated in the August 25, 2020 City Council Staff Report that when the WCH bridge is built bicyclists and pedestrians will use the WCH bridge and the crosswalks and sidewalks will be removed so the intersection can be widened. The City screwed up and is now having to lie on top of lie to try to avoid linking the two phases of the project. Just maybe, the City is concerned the State might hold the City accountable for the City’s representations and the money it has provided!

Is this the type of city the State wants to bestow the privilege of approving Coastal Development Permits and protecting our coastal resources for generations to come? Maybe this privilege should be reconsidered by the Commission.

5. Appellant certification

See attached sheets following the Detailed Objections below.

Detailed objections

The following detailed objections are primarily the same objections in the form of written comments provided to the City of Newport Beach Planning Commission by David Tanner. Additional comments were provided to the City Zoning Administrator and are incorporated herein. **Section 3** below contains a detailed analysis of project inconsistencies with applicable LCP standards and public access policies of the Coastal Act. They have been updated based on new information learned. The Coastal Commission may find other project inconsistencies with the LCP which may provide additional grounds justifying the Appeal of the CDP.

City Staff provided written responses to many of the comments submitted to the Planning Commission. Responses to comments by the City are archived on the City's website along with Video recording of the Planning Commission public hearing. By reviewing the City's verbal and written responses to LCP/CDP consistency questions, the Coastal Commission can determine if the City correctly administered the Coastal Act/LCP and made the correct findings to support approval of a CDP for this project.

Overview

This project is inconsistent with the General Plan, Municipal Code and its Local Coastal Program (LCP). These inconsistencies combined with the project's potential to result in potentially significant adverse environmental impacts disqualify the project from the use of an Addendum to the 2019 Mitigated Negative Declaration (MND). Another form of document to satisfy the California Environmental Quality Act (CEQA) is required for the project. One that addresses Coastal Act/LCP environmental concerns and federal National Environmental Policy Act (NEPA) concerns in addition to CEQA concerns. These inconsistencies and the project's potential for significant adverse environmental impacts do not support the Findings required for approval of a Coastal Development Permit.

All development in areas where the Coastal Commission retains coastal development permit authority shall require conceptual approval from the City prior to application to the Coastal Commission.² The project site is one such area. An approval in concept by the City indicates that the proposed development conforms in concept to all City land use and development regulations, including any applicable discretionary actions, and therefore entitles the applicant to apply to the Coastal Commission for a Coastal Development Permit.

The precedential value of the City's decision for future interpretations of its LCP along West Coast highway is extremely high. The extent and scope of the project approved by the City has been deliberately understated. The significance of the coastal resources affected by the decision are clear. The City does not have factual and/or legal support for the City's decision that the project is consistent or inconsistent with the relevant provisions of the certified LCP.

By approving the project CEQA Addendum to the MND, Coastal Development Permit and Resolution the City is telling the Coastal Commission:

² LCP Section 21.52.015.1 (B) Projects Bisected by City and Coastal Commission Jurisdiction

- 1) The proposed Project conformed to all City land use and development regulations, including any applicable discretionary actions; and
- 2) The proposed Project conforms to all applicable sections of the certified Local Coastal Program (LCP) and therefore entitles the City to apply to the Coastal Commission for a coastal development permit.

If the Zoning Administrators approval were left unchallenged, this decision will have resulted in yet another black eye for the City of Newport Beach and its citizens in the eyes of the Coastal Commission. The project does not conform to the requirements of CEQA, does not conform to all City land use and development regulations, and does not conform to all applicable sections of the City's certified LCP.

Starting in 2014 (perhaps earlier) the City began discussing traffic improvements to the intersection of Pacific Coast Highway and Superior Avenue. These improvements implement the long-range (2040) California Transportation Plan (CTP) required by federal and State law. The CTP is incorporated in the Orange County Master Plan of Arterial Highways and incorporated in the City General Plan, Circulation Element. To accommodate the anticipated population growth and associated increase in traffic volume the CTP focus now is on improving the efficiency of California's arterial roadways. The Caltrans Future Mobility Plan transitions from away from building new roads to reducing total vehicle miles traveled, reducing single occupancy vehicle use, increasing use of mass transit and other forms of transportation. The City Public Works Department is tasked with insuring among other things, the City has an adequate and safe circulation system to meet its needs. Caltrans, OCTA and the City Public Works Department all have a common goal, to ensure an adequate circulation system. They work collectively to achieve this goal.

The City divided the project into two phases. The proposed project (Phase 1) and the West Coast Highway Widening and Bridge Project (Phase 2). The City can explain their rational for this decision.

On August 25, 2020, the Public Works Department described the intersection improvements as follows:

“The Superior Avenue Bridge project involves constructing a new pedestrian bridge across Superior Avenue and a new larger parking lot. The new pedestrian bridge will improve access to Sunset Ridge Park and the new larger parking lot will provide additional parking for visitors to Sunset Ridge Park and the beach. The WCH Bridge project involves widening West Coast Highway to increase vehicular capacity and constructing a pedestrian bridge across West Coast Highway. With the completion of both projects, sidewalks and two crosswalks at this intersection can be eliminated as pedestrians will be able to use the two new bridges and ramps. Eliminating two crosswalks and moving the pedestrians from the street level to the bridges and ramps will significantly improve pedestrian access and safety. This will also greatly improve traffic signal operation and vehicular circulation by allowing more traffic signal green time for vehicles traveling through the intersection.”

In order to complete the intersection improvements, the City began applying for grants from the Federal Highway Administration (FHWA) and Orange County Transportation Authority (OCTA). Public records show project information generated by the City was provided to the California Department of Transportation (Caltrans) and the (OCTA). Depending on the source of funds applied

for the project was described differently. Funding was applied for individual components of the project. For example, in communications with OCTA the project was described as the Newport Beach Bicycle and Ped Bridge. Other communication with OCTA described OCTA's priority for Project O funds as:

“OCTA is reviewing this element and its benefits toward adding capacity to the MPAH, a core requirement for Project O, but may ultimately be excluded from the overall project consideration.”³

What is clear from this communication is the intended use of the funds is to increase roadway capacity, not pedestrian and bicycle safety.

Going back at least to 2018 and continuing to the present, the City publicly discussed Phase 1 as the active phase of the project. At the present time, the City acknowledges the existence of Phase 2, but denies any linkage to the proposed project, claiming each phase is “independent”, that the second Phase is undefined and may never happen.

On October 18, 2018 the City submitted an application for OCTA's Comprehensive Transportation Funding Program – Intersection Capacity Enhancement Category (Planning Phase). The application was entitled “City of Newport Beach: West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2)”. The application justifies the project need in answering a “Reduced Traffic Congestion and Delay” question in part as follows.

“Although the intersection LOS calculations only show a slight improvement with the implementation of this project, there is a significant improvement in terms of delay that motorists will experience due to the proposed removal of the crosswalk across West Coast Highway. Given the high ADT on West Coast Highway, this critical east-west vehicular movement is often times delayed by pedestrians and bicyclists crossing the highway. This intersection, especially in the opposing north-south direction experiences a high volume of pedestrians and bicyclist due to the proximity of Balboa Peninsula. The construction of a pedestrian/bicycle bridge will allow the elimination of the at-grade crosswalk, which will in turn add a significant amount of traffic signal time to the critical east-west vehicular movement, ultimately reducing delay”

The City's explanation, is supported by technical analysis showing the combined effects of Phase 1 and Phase 2 which clearly shows the main benefit of the Project is to WCH, through the removal of the crosswalk and construction of the pedestrian and bicycle bridge. A significant effort and expenditure of funds went into the preparation of the grant application. This 27-page application contains detailed exhibits and specific information describing the planned improvements. The application was accompanied by a draft City Council Resolution. The cover of the City's application is provided below in **Figure 1**. This demonstrates the Phase 2 project was ongoing in 2018.

On October 23, 2019 the City submitted a second application for OCTA's Comprehensive Transportation Funding Program – Intersection Capacity Enhancement Category (Planning Phase). The application was again entitled “City of Newport Beach: West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2)”. This 27-page application contains

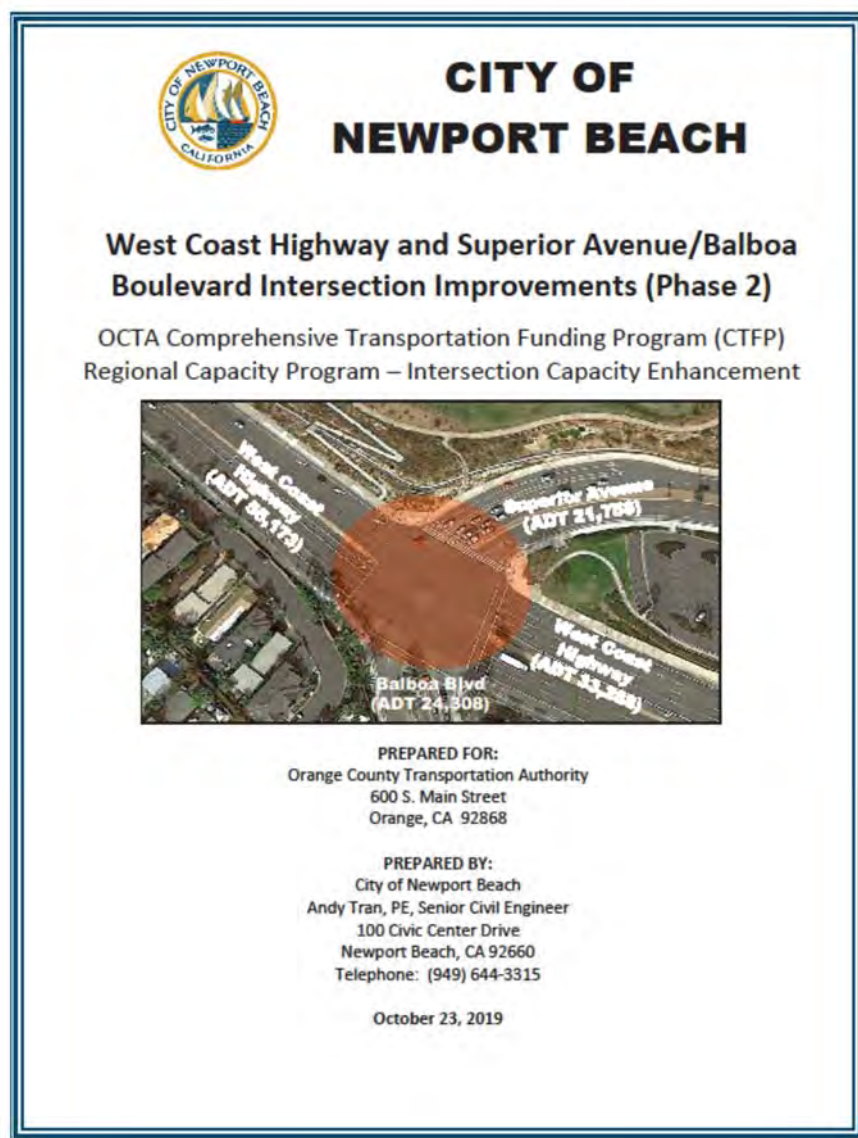
³ Source: Email from Joseph Alcock OCTA to Andy Tran 12-11-2018

detailed exhibits and specific information describing the planned improvements. The application was accompanied by a draft City Council Resolution. The materials submitted with this application appear identical to the October 18, 2018 application, with a new date. The Phase 2 project is clearly active in 2019.

In August 2020 months prior to the Zoning Administrator's hearing on the project, the City publicly acknowledged Federal Congestion Mitigation and Air Quality Funds (CMAQ) funds and state funding has been secured for construction of Phase 1 and partial funding for Phase 2. Phase 2 is clearly active and on-going at this time.

Figure 1

West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2).



This background discussion is important to provide and understand of the allegation of **piecemealing, one of the core allegations of this appeal**. The City states Phase 1 and Phase 2 are "independent projects", that "Although these two projects are separate, they are immediately adjacent to one another" and "The design of the Superior Avenue Bridge project will account for the proposed improvements of the WCH Bridge project. Because of the proximity of these two projects, they will need to be closely coordinated."

The City has stated continuously in print and in speech since 2018, Phase 2 has not been funded, is undefined and may never be build. This has had a dramatic impact on the definition of the project description scope of analysis. Even the City's argument is no longer true since obtaining \$780,000 in funding May 2020 and hiring consultants to continue detailed design in August 2020.

The scope of the project defined in permit applications and environmental analysis has a direct effect on the level and type of analysis, the significance of project impacts, project alternatives, project timing and outcome of the permits. Piecemealing is prohibited by CEQA. The Supreme Court's test to determine piecemealing and impact of piecemealing to CEQA and LCP compliance is discussed later in these comments.

While the City is best suited to explain their plan, from my research, the City's plan appears to be to get Phase 1 permitted by the City, Caltrans and the Coastal Commission, and once permitted, publicly acknowledge Phase 2 as an independent project. The City is hoping to process an amendment to the existing CDP issued by the Coastal Commission for the Sunset Ridge Park, and limit the scope of the amendment to the grading needed for the bridge abutment and its height variance for Phase 1. Phase 2 will require state and federal funding and approvals from the City, Caltrans and Coastal Commission.

The plan may have sounded good, but the regulations based on the facts, don't allow this to happen.

Phase 1 requires compliance with both CEQA and NEPA. NEPA permitting is required because the City received federal funding. Initially, the City's plan was to prepare a joint CEQA/NEPA environmental document. A consultant (the Chambers Group, Inc.) was retained by the City in June 2019 to provide CEQA/NEPA services. A CEQA consultant is a non-biased independent consultant. In the Professional Services Agreement (PSA), the Chambers Group, Inc. proposed to prepare a joint CEQA/NEPA document. Their PSA's Scope of Work states:⁴

A. Work Plan

"The Work Plan below therefore includes detailed information on how Chambers Group will prepare an Initial Study/Environmental Assessment (EA/IS), the findings of which will inform whether we proceed with a Finding of No Significant Impact/Negative Declaration (FONSI/ND) or FONSI/Mitigated Negative Declaration (FONSI/MND)."

It is clear as of the date of their PSA (April 2019), the Chambers Group Inc. had pre-determined the 2019 project was going to qualify for either a FONSI/ND or a FONSI/MND. They did not anticipate the preparation of an Environmental Impact Report or Environmental Impact Statement.

⁴ Source Professional Services Agreement, The Chambers Group, Inc., April 23, 2019

A joint CEQA/NEPA document is the recommended procedure by both CEQA (Guidelines Section: 15222) and Caltrans.⁵ Introductory meetings were held with the City, the Chambers Group Inc. and Caltrans. The City, Caltrans and OCTA needed to figure out who would take the CEQA/NEPA lead. Caltrans acts as the NEPA lead under a memorandum of understanding between the Federal Highway Administration (FHWA) and the state. Based on Caltrans understanding of the project, it was agreed between the parties the City would prepare an independent CEQA document and Caltrans would prepare an independent NEPA document. CEQA and NEPA compliance efforts were closely coordinated by the City. In fact, the City and its consultant the Chambers Group Inc. provided Caltrans all the environmental analysis and forms. The public records show Caltrans provided review and coaching to City Staff and the Chambers Group, Inc. to help focus the NEPA analysis and its outcome.

Undisclosed Scenic Easement

For whatever reason, the public has never been told of the NEPA permitting or any of the federal environmental concerns. It would have been nice to have been told for example, there is a scenic easement in favor of the State existing on approximately 40% of Sunset Ridge Park. That this easement area will be impacted by the bridge and bridge abutment. That this easement does not allow any structures. Let alone, the bridge and its abutment that exceed the maximum permitted height by 6 feet! The Scenic Easement is depicted on **Figure 2**. Staff can explain why they chose not to tell the public. Had the scenic easement been disclosed the project would result in significant land use and visual impacts which would have impacted the LCP consistency determination.

Figure 2
Sunset Ridge Park Scenic Easement Area (shown in red)



⁵ Caltrans/Programs/Environmental Analysis/SER/Vol.1
<https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-37-preparing-joint-nepa-ceqa-documentation>
Chapter 37 - Preparing Joint NEPA/CEQA Documentation

In order for Phase 1 to obtain Coastal Development Permit approval, Findings must ensure that any development in the coastal zone preserves and enhances coastal resources; protects and enhances coastal views, or if this is not feasible, the LCP requires the project to justify those impacts. In this case, a Mitigated Negative Declaration (MND) and Coastal Development Permit were approved for the Phase 1 project in 2019. There were no significant environmental impacts identified and a MND was certified by the City. Based on modifications to the project an Addendum to the MND was prepared for a refined project design and a new Coastal Development Permit was approved in December 2020 by the City Zoning Administrator (the proposed project being appealed). The 2020 Coastal Development Permit also found the project conformed to all City land use and development regulations, including any applicable discretionary actions (CEQA); as well as conformed to all applicable sections of the certified LCP.

In June 2019, the City acting as the lead agency for implementation of CEQA, defined the Project (Project Description) as Phase 1. Consequently, the CEQA analysis for the 2019 MND and its 2020 Addendum failed to address the “whole of the action” (both phases of the project) which is required by CEQA. This practice is referred to as “piecemealing”, a practice prohibited by CEQA. This same project description was used for the Coastal Development Permit and its scope of analysis. This Project Description and analysis was provided to Caltrans for use in the federal NEPA documentation. Similarly, the CEQA Addendum, Staff Report and Findings for the CDP for the Phase I project do not mention the NEPA process. While the failure to disclose the ongoing NEPA process and federal environmental issues in the CEQA document may not be illegal, it certainly does not follow the intent of CEQA which stresses public awareness, government transparency and recommends the Lead Agency error on the side of the environment. Staff and its CEQA consultant, the Chambers Group, Inc. can explain why they chose not to mention the federal environmental process/issues in the CEQA document, Staff Report, CDP Findings, etc.

The NEPA process relied upon the City's Phase 1 Project Description. It appears from the public records the scope of the project analysis was focused to the project described in the federal or OCTA grant application (the bridge). The scope of analysis can best be described by My Charles Baker, Caltrans Senior Environmental Planner or Environmental Branch Chief who seems to have been the Caltrans lead for the project, or one of several OCTA project contacts in the public record. The City and the Chambers Group, Inc. assisted Caltrans in the preparation of the documents required for the NEPA analysis. Caltrans based its decisions in part on the information provided by the City and its consultant the Chambers Group, Inc. Caltrans asked the City numerous questions and commented on the content of materials submitted before making its final decision. The City's CEQA consultant, the Chambers Group, Inc. prepared a draft a Preliminary Environmental Study (PES)⁶ and provided it to Caltrans. The PES stated the following:

Question No.

1. “The proposed Project would be designed in one phase with no future construction proposed.”
10. “The proposed Project is not located adjacent to water resources such as streams, rivers, bay, inlets, lakes and drainage sloughs.”
17. “The proposed Project is located within an urbanized area with no wetlands adjacent to the proposed Project site.”

⁶ Caltrans PES Form_06.20.19.pdf

22. "The proposed Project is the construction of a pedestrian and bicycle bridge that would span Superior Avenue. The presence of the bridge may result in a visual impact to the area."
23. "The proposed Project would occur within the City's right-of-way and would not encroach on federal or state lands."

Staff and the City's CEQA Consultant, the Chambers Group. Inc. are best suited to explain these statements.

While the City was preparing the draft MND in 2019, Caltrans was preparing the draft NEPA document for the project. The City, the Chambers Group and Caltrans coordinated to complete the NEPA document. Following review of the certified MND, on January 13, 2020 Caltrans determined the 2019 project qualified for a Categorical Exclusion (CE). A CE is defined as:

"A categorical exclusion (CE) is a class of actions that a Federal agency has determined, after review by CEQ, do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is normally required. The use of categorical exclusions can reduce paperwork and save time and resources."⁷

(Note: CEQ refers to the Council on Environmental Quality (CEQ))

The analysis required for the Coastal Development Permit looks at the environment from the perspective of the California Coastal Act. Compliance with the act involves an additional set of criteria. In the analysis for the 2019 and 2020 Coastal Development Permit, Staff and the City's CEQA consultant made a series of errors. Two such errors are: not recognizing the site is a "sensitive coastal resource area" as defined by the LCP/Public Resource Code⁸ and claiming the site is not located on a coastal bluff. These errors significantly reduce the level of analysis required for CEQA and the CDP.

Similar to the 2019 Phase 1 project, the Project Description and project analysis for the 2020 Addendum, Staff Report and Coastal Development permit Findings are riddled with errors, omissions and misrepresentations, in my opinion, to deliberately attempt to define the project in a way to minimize its environmental impacts, to obtain public support (advertising the project to the public as a public safety improvement project) and to piecemeal the project to attempt to hide the project's primary goal, to satisfy Caltrans, OCTA and the City's Public Works Department objective to widen and improve the efficiency of the intersection of Superior Avenue and West Coast Highway.

A few examples of erroneous claims made in the CEQA Addendum/MND, Coastal Development Permit, Staff Report and Resolution include:

- The project is a Government Facility
- The project is not located on a coastal bluff
- The project is not part of a larger project
- The project will not result in significant visual or land use impacts
- All trees to be removed are ornamental

⁷ Source: NEPA.GOV. Categorical Exclusions. <https://ceq.doe.gov/nepa-practice/categorical-exclusions.html>

⁸ Public Resources Code Section 30116

- The project can be approved without requiring variances to exceed the maximum height allowable for the bridge, bridge abutments and retaining walls.
- The project maintains, enhances and restores the overall quality of the coastal zone environment and its natural and artificial resources". (Section 21.10.020.B.)
- The Project ensures that any development in the coastal zone preserves and enhances coastal resources; protects and enhances coastal views." (Section 21.10.020.G)

These claims have a significant effect by enabling the City to make CDP Findings and reducing the scope of analysis for the CEQA document and the CDP.

Staff makes another fundamental mistake. Staff failed to recognize the requirements of LCP Section 21.52.015.1 (B) "Projects Bisected by City and Coastal Commission Jurisdiction". Staff believes the Coastal Commission's only involvement will be an amendment to an existing Coastal Development Permit (CDP 5-11-302) previously issued for Sunset Ridge Park. The only part of the Phase 1 project Staff believes the Coastal Commission has jurisdiction over is the evaluation of the construction of the western bridge abutment within Sunset Ridge Park.

Staff made another fundamental mistake by only submitting the City's 2009 CEQA MND to the Coastal Commission as the environmental analysis for the Coastal Commission's Coastal Development Permit. The MND even combined with the 2020 Addendum do not address all LCP policies or environmental concerns.

This strategy is flawed. The standard of review for development within the coastal zone is the certified LCP. CEQA policies are not the standard of review for LCP compliance. In simple terms, this means when considering the CDP for approval, it is the project's compliance with the LCP policies that take priority. The environmental analysis must consider the Coastal Act/LCP environmental concerns and not be solely based on CEQA Guideline Checklist questions and CEQA Guideline thresholds of significance. In this case, the City Addendum/MND can help fulfill the analysis required by the LCP, but the MND/Addendum is only a supporting document. The City does not have factual and/or legal support for the City's decision that the project is consistent or inconsistent with the relevant provisions of the certified LCP.

The Coastal Commission has told Staff this, yet Staff has failed to take heed. In June 2020 Coastal Development Permit (CDP2019-003) which used a similar Staff analysis was approved by the City for the Garden Office and Parking Structure project, located close by in Newport Beach. The City approval was appealed to the Coastal Commission. In the initial Coastal Commission analysis, the Coastal Commission noted: **"the standard of review for this appeal is the certified LCP. It should also be noted that CEQA policies are not the standard of review for this appeal."**⁹ Put in simple terms, the LCP requires that in addition to the City General Plan, Municipal Code and CEQA requirements, the Local Coastal Program land use policies, implementation standards and Coastal Act/LCP environmental concerns be included in the analysis to satisfy the Findings required for a Coastal Development Permit. This has not been done and if this were to be done, it is the Appellants opinion, the Coastal Development Permit would be denied.

⁹ California Coastal Commission, Staff Report: Appeal - Substantial Issue. Appeal No. A-5-NPB-20-0025, August 23, 2020

Examples of required LCP analysis not completed include:

- Demand for Access and Recreation.¹⁰ (justify a shortage of parking exists for Sunset Ridge Park)
- An analysis demonstrating there is no feasible less environmentally damaging alternative (“the primary goals of this project are to improve safety and access to Sunset Ridge Park and to increase parking availability”)
- Relationship and Proportionality.¹¹ (The provision of public access shall bear a reasonable relationship between the requirement and the project's impact and shall be proportional to the impact.)
- Justification for the claims of Special Circumstances (for reduction in the 100' buffer from wetlands and variances to allow an increase in the maximum allowable height of retaining walls, the bridge and bridge abutments)
- The requirement to justify the project will not have an adverse effect, either individually or cumulatively, on coastal resources (the discussion of the Phase 2 project, as well as any other proposed projects and or approved and not yet built projects in the area)

This information must be analyzed in an updated CEQA document prior to approval of a Coastal Development Permit.

The City Staff Report, CEQA document, Findings in support of the CDP and public comments received as a part of this appeal must be provided to Caltrans for this project. Based on Caltrans comment below,¹² it is likely a new/amended Visual Impact Assessment (VIA) and updated VIA score will be assigned to the project. Combined with the current level of public controversy over the project's environmental effects, it is likely a new/updated more extensive NEPA document will be required for the project.

“Also, I’m not real comfortable at this point with the “TBD” answer given for question #2, about the potential for public controversy on this project. I understand that community meetings are ongoing at this point, but it would be nice if you could beef up the expanded answer on page 11 of the PES with info regarding whether the community has been generally supportive of the project to date. Again, if there’s even a hint of controversy involved here, I cannot release a NEPA CE, and we’d have to go to a higher level document.”

Given the number of LCP policy and development plan conflicts facing the project and their anticipated impact on the project, I recommended the City re-evaluate the feasibility of the project.

Coastal Commission Coastal Development Permit Status

An amended Coastal Development Permit application to Sunset Ridge Park CDP 5-11-302 was submitted on November 2020 to the Coastal Commission by the City. The application asks to allow

¹⁰ LCP Section 21.30A.040 (B) (2)

¹¹ 21.30A.040 Determination of Public Access/Recreation Impacts.

¹² email from Baker, Charles, Caltrans, July 11, 2019, RE: Newport Bicycle and Pedestrian PES – for review, CML 5151 (031)

construction of the bridge abutment, and requests an exception (variance) to exceed the maximum permitted height of the bridge abutment. The Coastal Commission has deemed this application incomplete.

The following Sections list specific shortfalls justifying this appeal.

Section 1. PROBLEMS WITH OWNERSHIP, EASEMENTS, PROJECT DESCRIPTION AND SETTING.

Section 2. WHAT DOES GOING-FORWARD AT THIS TIME MEAN FOR THE PROJECT AND THE CITY?

Section 3. THE PROJECT DOES NOT CONFORM TO THE STANDARDS OF THE LOCAL COASTAL PROGRAM OR THE PUBLIC ACCESS POLICIES OF THE COASTAL ACT.

Section 4. AN ADDENDUM TO THE PRIOR CERTIFIED MITIGATED NEGATIVE DECLARATION (SCH 2019099074) IS NOT THE APPROPRIATE CEQA DOCUMENT FOR THE PROJECT.

Section 5. THE CEQA ADDENDUM/MMND FAILS TO ADDRESS WHOLE OF THE ACTION. THE PROPOSED PROJECT IS PART OF A LARGER PROJECT.

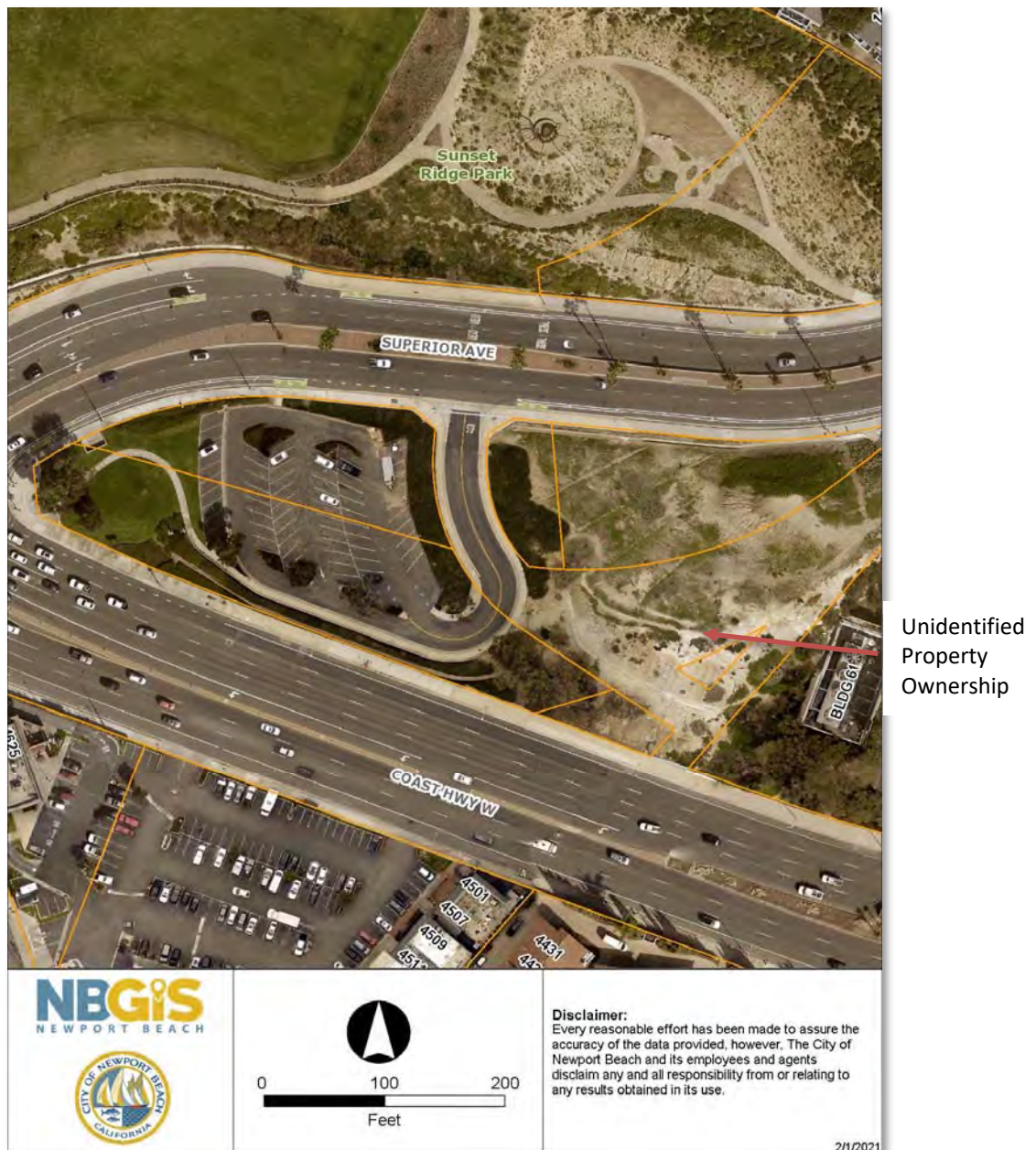
Section 6. PROJECT HISTORY.

Section 1. PROBLEMS WITH OWNERSHIP, EASEMENTS, PROJECT DESCRIPTION AND SETTING

Property Ownership, Easements and Use Restrictions

In addition to the Scenic Easement prohibiting any structures on a portion of Sunset Ridge Park, the ownership of the entire property cannot be determined. Assessor Parcel numbers provided do not cover the entire property. The City failed to disclose who owns approximately 20% of the property subject to the Coastal Development Permit area under the City's jurisdiction. Appellant assumes the property is owned by the California Department of Transportation. This irregular shaped area generally occupies the eastern portion of the site, extending from the parking lot access drive northward to Superior Avenue, as shown on **Figure 3**.

Figure 3
NBGIS Exhibit Depicting Assessor Parcels



Assessor Parcel Numbers 424-041-11 & 424-041-13 (the existing parking lot) were dedicated to the City by Caltrans as environmental mitigation to offset parking impacts from the prior widening of Pacific Coast Highway under the condition these parcels be used exclusively for parking in perpetuity. If not, ownership of the parcels reverts back to the State. The condition of dedication does not allow for a bridge. State approval is required. Separate state and/or federal permitting by Caltrans is required for the Project. None of this has been disclosed to the public or analyzed.

According to the City NB-GIS data base, the boundary of the Project as defined in Resolution 2020-082 does not include any property west of the centerline of Superior Avenue. The application fails to disclose who owns the western half of Superior Avenue spanned by the bridge and what approvals are required.

Regulatory Setting - Coastal Act Permit Jurisdiction

The property is located within both the Coastal Commission's and City's coastal development permit jurisdictions.¹³ As a result, coastal development permits are required by both the City and the Coastal Commission.

The 2019 project was an approval in concept by the City. Staff was directed to refine the project based on a decision made by the City Council. An approval in concept indicates that the proposed development conforms in concept to all City land use and development regulations, including any applicable discretionary actions, and therefore entitles the applicant to apply to the Coastal Commission for a coastal development permit. The City may approve or conditionally approve a coastal development permit application, only after first finding that the proposed development conforms to all applicable sections of the certified Local Coastal Program. (LCP Section 21.52.015.1)

An application for a Coastal Development Permit amending Sunset Ridge Park CDP 5-11-302 has been submitted to the Coastal Commission by the City. The Coastal Commission has deemed this application incomplete.

If the Coastal Commission had reviewed this project, they would have determined the 2019 project does not conform to the standards of the LCP or the public access policies of the Coastal Act for the same reasons as the proposed project does not comply. In addition, the 2019 project requested a height variance of 38' for the bridge, which is beyond the maximum height variance allowance permitted by the LCP.

Project Description – Justification for Project Goal

“The primary goals of this project are to improve safety and access to Sunset Ridge Park and to increase parking availability”

Sunset Ridge Park - The 13.7-acre public park occupies the northwest corner of the intersection of Pacific Coast Highway and Superior Avenue. The Sunset Ridge Park includes a baseball diamond that overlaps in area with two soccer fields, a children's playground, a grass warm-up field, pedestrian paths around the perimeter of the park, view areas, a shade structure, and a restroom/storage facility.

The LCP requires the applicant justify a “Demand for Access and Recreation” (LCP Section 21.30A.040, B, 2) There is no evidence in the record that the city prepared a Demand Access and Recreation analysis to support the Phase 1 project assertion that “Visitors to Sunset Ridge Park currently use the existing smaller parking lot

¹³ “The Coastal Commission retains original permit jurisdiction over certain specified lands, such as submerged lands, tidelands, and public trust lands, and has appellate authority over development approved by local government in specified geographic areas and for major public works projects and major energy facilities.”

located south of Sunset View Park and cross Superior Avenue via an at-grade crosswalk.”, or more importantly, there is a shortage of parking for park users. There is no evidence in the record to support the assertion the enlargement of the parking lot and addition of a pedestrian bridge over Superior Avenue will significantly increase use of the Sunset Ridge Park or improve safety. This is simply a goal the City wishes to achieve. The City claimed:

“In addition to the proposed bridge, the project will also include sidewalk improvements, curb ramps, signage, and traffic signal modifications to mitigate reduced sight distance caused by the proposed bridge.

It should be noted that Sunset Ridge Park was only opened in late 2014, so none of the data presented reflect the more **than 16,000 children and youth (plus their families) expected to use the intersection each year** to access the soccer and baseball fields at the newly opened park.”¹⁴

The facts presented in the 2018/9 funding application to OCTA are that the overwhelming majority of people parking vehicles in the existing parking lot use the parking lot to cross WCH to access the south side of WCH and the beach. The information is in direct contradiction to the Project Description for the project which states the majority of people park in the parking lot to use Sunset Ridge Park.

The facts are the City has received complaints from the adjacent residential neighborhood north of Sunset Ridge Park on the west side of Superior Avenue about people parking their vehicles on public streets in their neighborhood to use Sunset Ridge Park. Parking is free in the residential neighborhood. People parking in the residential neighborhoods on the west side of Superior Avenue do not need to cross Superior Avenue to access Sunset Ridge Park. The only time the existing metered (pay) parking lot is full is when people come to use the beach or there is a special event at the park (very rare, if ever!). All other times the parking lot is less than full, many times with only a few cars. For example, **Figures 4-9** show a crowded Sunset Ridge Park with a less than full parking lot on Saturday December 9, 2020 at 10:00 am and again on Sunday January 3, 2021 at 10:30 am. The park is full and the parking lot is not.

The City NB-GIS website identifies the **Sunset Ridge Park capacity at 35**. General hours of operation are 7 am to 9 pm. The park has no night-time lighting. Actual hours of use vary depending on the hours of sunlight. During winter months when there are fewer daylight hours, time of use is reduced to approximately 7 am to 5-6 pm. The baseball field overlaps the 2 soccer fields preventing the 3 fields from being used simultaneously.

The LCP requires the City demonstrate there is a demand for access and recreation, not just claim a parking problem contributes to their perception of an underutilized park to justify the impact to coastal resources caused by the project. The reality is the people choosing to drive to the Sunset Ridge Park choose to park for free in the adjacent residential neighborhood and walk to the park. The proposed expansion of the metered parking lot (a pay parking lot) will not attract users to the park if users can continue to park for free in the adjacent residential neighborhoods. The parking lot is and will be used almost exclusively for beach users. Therefore, the project will not contribute to significant traffic enhancements at the intersection of Superior Avenue and West Coast Highway as claimed, and will not contribute to significant pedestrian safety as claimed. To the contrary, not all pedestrians and bicyclists accessing Sunset Ridge Park will from the south side (ocean side) of WCH will choose to use the bridge if the crosswalk remains as proposed. Using the bridge is an inconvenience because the staircase has no ramp for handicapped people, bicyclists and pedestrians with wagons full of beach gear who will have to walk up Superior to the entrance vehicular entrance to the new parking lot. Therefore, the change in traffic signal phasing (green time) will be minimal at best. Very few people are going to pay to park in the new parking lot and use the bridge to access the park, when they can park for free in the adjacent residential neighborhoods and avoid the need to cross Superior Avenue. People choosing to park for free over

¹⁴ Source: Active Transportation Program - Cycle 2 Application Form Part B

metered parking is true for most if not all residential areas close to the beach. The parking lots increased number of parking stalls will add to the total number of pedestrians and bicycles crossing WCH at Superior Avenue to access the beach. Therefore, the Phase 1 project as an "independent project" will increase pedestrian and bicycle safety hazards for pedestrians and bicycles crossing WCH. Something not addressed in the MND, its Addendum or Staff Reports.

The MND (page 112) justifies a less than significant Transportation impact by stating "In addition, the larger parking lot would serve the existing park users". None of the increased capacity of the parking lot was assumed to be used by people going to-and-from the beach in the MND, when in fact, the overwhelming majority of existing parking lot users use the parking lot to access the coastal side of WCH and back. If a change in use of the parking lot will occur as a result of the proposed project, the LCP requires the City provide documentation to support this claim. No documentation has been provided. The inconvenience of the proposed staircase with no ramp to the bridges to cross the intersection has the potential to cause residents that currently walk to nearby businesses to drive rather than walk, or decide since they have to drive, to visit other business.

Figure 4

View from Sunset Ridge Park looking easterly, at parking lot Saturday, December 19, 2020 9:50 am



Figure 5

View of Sunset Ridge Park looking northerly Saturday, December 19, 2020, 9:50 am



Figure 6

View of Sunset Ridge Park looking northwesterly, Saturday, December 19, 2020, 9:50 am



Figure 7

View of Sunset Ridge Park looking westerly, Saturday, December 19, 2020, 9:50 am



Figure 8

View of Sunset Ridge Park looking westerly, Sunday, January 3, 2021, 109:32 am



Figure 9

View from Sunset Ridge Park looking easterly, at parking lot, Sunday, January 3, 2021, 109:32 am



One of the City's reasons for the bridge is to increase safety at this intersection. The intersection of Superior Avenue and West Coast Highway is dangerous as are many other intersections in the City. Improving the pedestrian safety at this intersection should be a priority.

The Appellant believes the City should be guided by the City General Plan. Specifically, the General Plan Vision Statement reflecting the city-wide residents vision developed over a 2 year period of "reducing traffic citywide by 28,920 trips each day over the life of the plan."¹⁵ The Appellant believes significant traffic calming measures are a least damaging environmental alternative, one consistent with the General Plan, Caltrans Future Mobility Plan, and a better long-term alternative than widening and increasing the capacity of WCH, constructing bridges, bridges and more bridges, wherever pedestrians and bicyclists cross Pacific Coast Highway or its cross streets. Increasing the capacity on WCH will increase the risk of injury and fatal accidents.

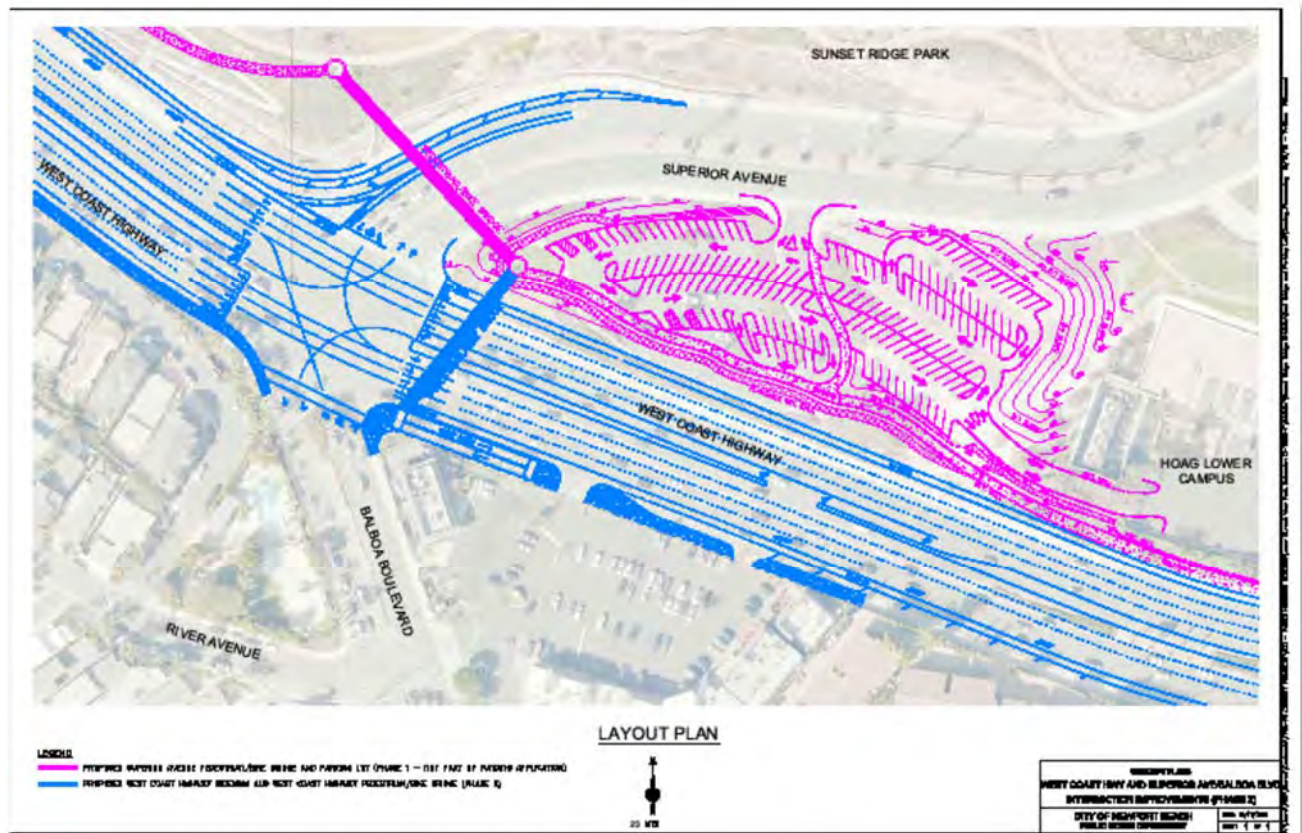
Linkage between the Phase 1 and Phase 2 projects

A direct linkage between the 2019 project (Phase 1), its final design (the proposed Project) and Phase 2, the WCH Widening and Bridge project was established in 2014. A Layout Plan prepared in October 2018 by the City Public Works Department submitted as part of a grant application (see cover page, Figure 1) to OCTA is

¹⁵ City of Newport Beach General Plan, Introduction, page 1-2

provided below on **Figure 10**. This linkage was reaffirmed most recently by the City Council's approval of Agenda Item #12 on August 25, 2020. Additional documents establishing the linkage are identified in Sections 4-6 of these comments. This is important because the CEQA document is required to address the "whole of the action" (Phases 1 & 2) which it does not. The Local Coastal Program requires the applicant to justify the project will not have an adverse effect, either individually or cumulatively, on coastal resources. This analysis has not been done by the City.

Figure 10
10-10-2018 City Public Works - Layout Plan (does not show the entire project)



August, 2020 City Council changes to the Phase 1 project - not included in Phase 1 Project Description

These design changes (changes to the project's "project description") resulting from the August 25, 2020 City Council action are not disclosed and/or incorporated in the Staff Report for, or any of the attachments presented at the December 10, 2020 Zoning Administrators hearing. The existence of a Phase 2 project is dismissed by the City as speculation. The revised project description which should have described how "The design of the Superior Avenue Bridge project will account for the proposed improvements of the WCH Bridge project" (Phase 2) is not incorporated in the Staff report or CEQA Addendum to the 2019 MND. These changes were known by the Staff that "The design of the Superior Avenue Bridge project will account for the proposed improvements of the WCH Bridge project". Yet, the Zoning Administrator and Staff's denials of any linkage between the Phase 1 and Phase 2 project can be heard on the audio recording of the Zoning Administrator hearing and is reiterated by Staff to this day.

I believe by accident one revised exhibit was inadvertently included in the Staff Report materials for the Zoning Administrators hearing. This exhibit reflects the coordination between the Phase 1 and Phase 2 projects. This

rendering of the updated bridge design for Superior Avenue is depicted on Attachment D to the August 25, 2020 Staff Report approved by the City Council and in the CEQA Addendum. The combined Phase I and 2 projects result in the removal of the pedestrian staircase to the parking lot at the northeast corner of Superior Avenue and WCH. This staircase is eliminated when Phase 1 and 2 are planned together. This one change indicates project coordination as of the August 25, 2020 City Council meeting.

CEQA Identification of Cumulative Projects

The Phase 2 WCH Widening and Bridge project is identified in the CEQA addendum as a potential cumulative project. The Addendum states:

“Since the time of Project approval, the City has received funding for an additional project which could be considered a cumulative project. This project includes widening West Coast Highway and constructing a pedestrian bridge across West Coast Highway to provide access from the parking lot across West Coast Highway as shown in Figure 4-3: West Coast Highway Pedestrian Bridge Location.

As shown in Figure 4-4: West Coast Highway Bridge Rendering, this second bridge is not anticipated to block views of the ocean. However, it is unknown at this time when this Project would be constructed. Similar to other cumulative projects, this project would be considered a discretionary action that would trigger CEQA and it would be required to undergo project specific environmental review similar to the proposed Project, prior to construction. **Impacts would be less than significant**, and no major revisions to the 2019 MND would be required.”

How can the City's independent non-biased CEQA consultant, the Chambers Group, Inc. conclude at that time the WCH Widening and Bridge project “Impacts would be less than significant, and no major revisions to the 2019 MND would be required” when the firm's contract amendment approved by the City Council on August 25, 2020, bases their scope of work and fee on the anticipated requirement to prepare an Environmental Impact Report (EIR) for the WCH Widening and Bridge project? The anticipation of an EIR anticipates the WCH Widening and Bridge project will result in one or more significant adverse impacts, let alone the fact the environmental analysis has not been completed/certified!

The need for an EIR for the WCH Widening and Bridge project is further confirmed in the Staff Report for the August 25, 2020 City Council hearing. The Staff Report makes it clear in Staff's mind the WCH Widening and Bridge project has the potential to result in one or more potentially significant adverse impacts.

The WCH Widening and Bridge Project is described in the August 25, 2020 staff report as follows:

“The WCH Bridge project involves widening West Coast Highway to increase vehicular capacity and constructing a pedestrian bridge across West Coast Highway. **With the completion of both projects, sidewalks and two crosswalks at this intersection can be eliminated as pedestrians will be able to use the two new bridges and ramps. Eliminating two crosswalks and moving the pedestrians from the street level to the bridges and ramps will significantly improve pedestrian access and safety. This will also greatly improve traffic signal operation and vehicular circulation by allowing more traffic signal green time for vehicles traveling through the intersection. The design of the Superior Avenue Bridge project will account for the proposed improvements of the WCH Bridge project.**”
(Pg. 12-3)

As far as CEQA compliance and LPC compliance, the Phase 2 project is either a part of the project and described in the CEQA document or it is a cumulative project required to be discussed by the LCP. Either way, Phase 2 is required to be discussed in detail. There is no evidence in the city public record this analysis occurred.

For the City's independent non-biased CEQA consultant, The Chambers Group, Inc. to predetermine this project would have less than significant impact on coastal views or coastal resources is wrong! For the Zoning Administrator to certify this CEQA Addendum to the 2019 MND is wrong!

Errors in the analysis and their significance

Why is the City denying the linkage of the proposed Project to the WCH Widening and Bridge project? Simple, this would require the Project to prepare an EIR, addressing both phases of the project which will delay the project for over a year and likely involve the project in the General Plan Housing, Land Use and Circulation Element update, and its EIR process, let alone potentially disqualify both phases of the project from obtaining a Coastal Development Permit.

Why didn't the Project consider the visual impact of 88 trees proposed to be planted in the new parking lot and its slopes? These trees have the potential exceed the height of the bridge and result in significant adverse visual impacts. If the trees are to be maintained to ensure their height does not impact views of coastal resources, what will that height be? Palm trees are one of the tree species listed on the plant palette. How will a palm tree's height be maintained? Cut the tops off? The CEQA consultant, the Chambers Group, Inc. should explain this omission.

Why doesn't the analysis discuss the removal of "Special Trees" covered by the City's G-Series Policies located at the northeast corner of Superior Avenue and WCH? The Addendum and 2019 MND state all trees are ornamental. This is a conscious statement! The CEQA consultant, the Chambers Group, Inc. should explain this statement.

Why didn't the CEQA document acknowledge the scenic easement covering roughly 1/3rd of Sunset Ridge Park which prohibits all structures, such as the proposed bridge? The CEQA consultant, the Chambers Group, Inc. should explain this omission.

In the big picture its simple, any of these impacts represent a potentially significant adverse impact requiring the preparation of an EIR and potentially disqualifying the project from meeting the requirements for a Coastal Development Permit.

The design of the proposed Project requires variances to exceed the maximum permitted height of retaining walls, the height of the bridge and bridge abutments. The only way for the project to qualify for relief from the maximum height standards is for the project to be a "Government Facility" (Section 21.30.060.D.16). Both the City Municipal Code and LCP define Government Facilities and provides examples. These examples are: "libraries, community centers, public hospitals, public utilities, lifeguard towers, tsunami warning sirens, architectural design features that accommodate emergency vehicles or essential equipment, etc.". Bridges, bridge abutments and retaining walls are not on the list and are not accessory uses to a Government Facility. Government Facilities are prohibited uses on the parking lot parcels. The City is proposing a government public works project. Not all government public works projects are Government Facilities. The City erred when it declared the project a Government Facility. City Staff should explain this decision. Without the ability to qualify for height variances, the project's feasibility is in question.

A second reason the project does not qualify for relief from LCP Implementation Plan Development Standards (height variance) is because relief from the standards is dependent on the project not having an adverse effect, either individually or cumulatively, on coastal resources (LCP Section 21.52.090.A). The City fails to justify its claims. The CEQA consultant, the Chambers Group, Inc. should explain this conclusion.

Waivers or modification of certain standards of this Implementation Plan may be permitted when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property

denies the property owner privileges enjoyed by other property owners in the vicinity and in the same coastal zoning district. While making the claim of special circumstances, the City failed to identify other property owners in the vicinity and in the same coastal zoning district who enjoy similar privileges.

The proposed Project does not meet the required 100' land use buffer from the Superior Avenue Wetlands and a wetland on WCH adjacent to the existing parking lot, a requirement of the LCP. While making the claim of special circumstances, the City failed to identify other property owners in the vicinity and in the same coastal zoning district who enjoy similar privileges.

The City also failed to provide the required LCP analysis demonstrating there is no feasible less environmentally damaging alternative. (LCP Section 21.30B.010.G.2).

Section 2. WHAT DOES GOING-FORWARD AT THIS TIME MEAN FOR THE PROJECT AND THE CITY?

The Coastal Commission has the final decision should the City's decision be appealed. Coastal Commission Staff has deemed the current Coastal Development Permit application incomplete. That is not good news for the City. As a condition of delegating authority to the City to approve Coastal Development Permits, the Coastal Commission required the City to administer the LCP pursuant to the requirements of the Coastal Act. In accepting this privilege, the City gave its word to do so. In recent years Coastal Commission Staff has agreed with appellants on several City approved CDP appeals. The Coastal Commission has become skeptical/leery of the City.

When the City proceeds with an Approval in Concept, the City is giving its word to the Coastal Commission the project conforms in concept to all City land use and development regulations, including any applicable discretionary actions, and that the City has found that the project conforms to all applicable sections of the certified LCP.

Appellant has discussed some of the major concerns with City Staff who have had discussions with Coastal Commission Staff. Appellant would not raise these issues if the Appellant believed the Coastal Commission would not support the Appellants position. What is the purpose, Appellant would lose on appeal!

Should Coastal Commission Staff disagree with the City's Approval in Concept for the 2019 project, or the proposed Project, it can continue to ask for more information, provide negative comments on the Approval in Concept, and/or proceed to a hearing with a recommendation for Denial of the CDP.

If the CDP is approved as proposed by the City, **there is a certainty it will be appealed to the Coastal Commission.** If Coastal Commission Staff agrees with one or more of the allegations in the appeal, the project will await a Coastal Commission hearing which could take a year or longer. Therefore, it is in the City's best interest from both a reputation and a timing standpoint to ensure both its residents and Coastal Commission Staff support the project and agree with the City CDP Findings, thereby reducing the probability of an appeal.

The Appellant does not disagree with the project's goals of increasing public access to coastal resources or increasing public safety. However, appellant expects the City to be forthright, transparent and to follow the rules. If the City chooses to approve a Coastal Development Permits it is expected the project meet the Coastal Act goals of preserving, protecting and enhancing coastal resources and protects and enhances coastal views.

At this point, the lack of forthrightness and transparency by the Zoning Administrator, certain project Staff members and the City's CEQA consultant has led to a total distrust of their actions. Unfortunately, these actions have compounded the existing lack of public trust in the City's analysis of development applications along the Mariners Mile, the ongoing General Plan Update process and other proposed development projects throughout the City. The Appellant seek the Planning Commission's help.

The Appellant and members of the community look forward to working with Commissioners, City Staff, Coastal Commission Staff and other agencies to address our concerns with the goal of refining project proposals into projects which can be supported by all.

Section 3. THE PROJECT DOES NOT CONFORM TO THE STANDARDS OF THE LOCAL COASTAL PROGRAM OR THE PUBLIC ACCESS POLICIES OF THE COASTAL ACT

Local Coastal Program Intent and Policies

Two purposes of the LCP are to "Protect, maintain, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources" and "to ensure that any development in the coastal zone preserves and enhances coastal resources; protects and enhances coastal views ..." (LCP Section 21.10.020, (B) & (G))

The California Coastal Act states new development in highly scenic areas shall be subordinate to the character of its setting.¹⁶ In this case, the LCP designates Superior Avenue a "Coastal View Road", Sunset Ridge Park and Sunset View Park designated "Public View Points".

It is the intent of the Coastal Act to protect, maintain, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources. This includes the site's disturbed landform and visual resources. The project design requires approximately 33,000 cubic yards of cut which will further impact the topography of the coastal bluff, require height variances to exceed the maximum permitted height for retaining walls, the bridge and bridge abutments and encroachments upon the Superior wetlands and WCH wetlands.

There are thousands of cars and many bicyclists and pedestrians that travel down Superior Avenue daily that enjoy the view of coastal resources. Think of a stadium. Seating is angled like Superior Avenue. When someone with a big hat or a sign sits in front of you, it doesn't matter where in the stadium you are sitting, if the person sits in front of you, your view will be impacted. The same will occur with the proposed bridge! The view impact will be even worse because the bridge will exceed the maximum height permitted by the LCP development standard. Staff's analysis only considers the view from the top of Sunset View Park and Superior Avenue, not the view impacts of pedestrians, bicyclists and motorists traveling down Superior Avenue, or looking north from West Coast Highway or Balboa Avenue at the proposed grading to the coastal bluff face, its large retaining walls, the bridge and bridge abutments which greatly exceed the maximum permitted height limits. The Coastal Act/LCP does not limit the direction of view analysis. The Planning Commission should consider public comments received as part of this appeal when determining the significance of the project's visual impact.

The project needs to demonstrate compliance with the LCP intent and specific policies.

Neither the 2019 project or the proposed Project is designed to minimize landform alterations or is sited and designed to protect public views to and along the ocean (views from Superior Avenue a designated View Corridor), protect sensitive coastal resource areas (Superior Avenue, the coastal bluff, Sunset Ridge Park and Sunset View Park), minimize visual impacts and be visually compatible with the character of surrounding areas. Thirty-three thousand cubic yards of cut, height variances for a 32-foot-high bridge, bridge abutments and grading required for retaining walls up to 25 feet high do not minimize alterations to coastal bluffs. The project's visual impacts are not compatible with the surrounding area. Project compliance with all of the standards listed in the LCP are a requirement of the Coastal Development Permit. The project fails to comply with many LCP requirements, some of which are listed in this section.

¹⁶ California Coastal Act of 1976 – Article 6 - Section 30251 PRC, <http://www.coastal.ca.gov/fedcd/cach3.pdf>, Accessed February 2, 2006.

Yet, the City's CEQA Addendum/MND claims the project will result in no significant environmental impacts. Importantly, a finding of no significant environmental impacts is required by the LCP for the project to qualify for a Coastal Development Permit. The City's CEQA consultant, the Chambers Group, Inc. should explain.

Exceptions to LCP Implementation Plan maximum height limits

Variances are required to exceed the maximum height limits established in the LCP. To be eligible for a Variance, the City claims the facility is a "Government Facility" which it is not. (LCP Section 21.30.060.D.16). This project is a "government project" the definition of which includes a wide range of public works projects.

Coastal Development Permit No. CD2020-143

The City of Newport Beach's action on Local CDP No. CD2020-143 authorized the demolition of an existing 64-space metered surface parking lot and the construction of a new larger 130-space metered parking lot, a pedestrian and bicycle bridge crossing Superior Avenue connecting the new parking lot to Sunset Ridge Park. The project includes landscaping disturbed areas including the use of trees. The City approved project also included hardscape and drainage to collect and treat surface runoff before being discharged in the municipal storm drain system. The project will require approximately 33,000 cubic yards of grading (cut) to construct the surface parking lot, and require construction of large retaining walls up to 25 feet tall. The surface parking lot is located adjacent to the corner of Superior Avenue, a designated Coastal View Road and West Coast Highway, and below Sunset View Park a designated public view point. The project will export approximately 10,500 cubic yards to an undetermined location(s) in the area. The project included variances/exception to exceed the maximum permitted height limits for bridge abutments, the height of the bridge and the height of retaining walls.

- The City's conclusion that the development is consistent with the provisions of the LCP was not adequately supported by documents in the record file or the City's findings as stated in Local CDP No. CD2020-143.
- The standard of review for this appeal is the certified LCP. CEQA policies are not the standard of review for this appeal.
- The proposal to construct a new metered surface parking lot and pedestrian and bicycle bridge that requires extensive grading and new retaining walls is not supported by a finding that the landform alteration is the minimum amount necessary to support the development, nor does it analyze design alternatives that do not require the structure to be constructed, or large new retaining walls near the property lines and below a public view point on the bluff face. As the project has been designed and approved by the City, the development would significantly alter the bluff face (which has been previously altered by an existing smaller 64 space metered parking lot and smaller retaining wall established by CDP No. 5-88-255 and subsequent amendments to mitigate for the loss of street parking resulting from the expansion of Pacific Coast Highway from 4 to 6 lanes.
- The City prepared a visual analysis of the project site from Pacific Coast Highway and the top of the bluff from Sunset Ridge Park. There is not sufficient evidence that the project would protect scenic resources consistent with LUP Policies 4.4.1-1 through 4.4.1-3.
- The project site is located within 100 feet of a wetland located on a moderately steep and disturbed slope extending up the slope from the sidewalk along Superior Avenue (Superior Wetlands). This wetland area is approximately 0.15 acre. The wetland is located on a slope that extends from the concrete-lined v-ditch at the toe of the slope to the edge of Sunset Ridge Park at the top of the slope. The dominant vegetation associated with the wetland area is cattail and non-native Mediterranean tamarisk. According to the City hired biologist, the source of the groundwater to the wetland is undetermined and is discharged into a surface v-ditch at the foot of the drainage. Under LUP policy 4.2.2-3, a minimum 100-foot buffer is required around a wetland for new development unless a proposed development site has site-specific constraints that preclude the provision of a 100-foot buffer or it can be demonstrated that a buffer width of less than 100 feet can protect the wetland. The staff report and the applicant's biologist report do not specify

whether there are site-specific constraints that would prevent the applicant from providing the appropriate buffer, nor do they adequately justify why a 100-foot buffer is not required for protection this wetland. The applicant's biologist report characterizes the Superior Wetland as a generally low-value wetland. Similarly, the project will impact a wetland near the NE corner of Superior and PCH. The applicant's biologist report characterizes the WCH Wetland as a generally low-value wetland. However, Policy 4.2.2-3 does not limit the requirement of a 100-foot buffer to high-value wetlands. Given that wetlands are a rare coastal resource in this region, extra care must be given to protect the wetlands from further degradation. It is possible that a reduced wetland buffer may be approved for this site and still protect biological resources consistent with the LCP, but the City-approved CDP does not include adequate findings to justify the reduced buffer or identify alternatives that would allow for a greater buffer. The City did not appropriately apply Section 4.2.2-3 to this project. Therefore, the City failed to demonstrate consistency with the certified LCP.

- The City's conclusion that the development is consistent with the provisions of the LCP Section 21.30A.040-A. (Relationship and Proportionality) was not adequately supported by documents in the record file or the City's findings as stated in Local CDP No. CD2020-143.
- The City's conclusion that the development is consistent with the provisions of the LCP Section 21.50.070-B. (Environmental Review) was not adequately supported by documents in the record file or the City's findings as stated in Local CDP No. CD2020-143.

The City should have required visual analysis from the ocean inland, West Coast Highway inland and West Balboa Blvd. inland to adequately analyze how the development as a whole could impact the topography and views of the coastal bluff, but the visual analysis in the City Record relied upon artist renderings of the bridge which did not include adequate locations to fully identify the project impacts to the coastal bluff, the public parks or Superior Avenue a Coastal View Road. Similarly, the City should have required a visual analysis from the public parks and at multiple locations along Superior Avenue. The City should have explained how the scenic easement prohibiting construction of the project on Sunset Ridge Park and the land use restriction on the parking lot prohibiting the construction of the bridge and bridge abutment complied with Coastal Act policies. California's coastal bluffs are significant coastal resources, and great care should be taken when designing new development to protect the visually aesthetic qualities of these rare landforms. The project is not consistent with LUP Policy 4.1.1-1 in that the project does not include appropriate measures to adequately protect the visual qualities of the coastal bluff. If such measures are included, they are not well reflected in the findings and conditions to approve the project.

The City-approved project includes 33,000 cubic yards of grading (cut) in order to construct the bridge abutments and parking lot on the coastal bluff face. LUP Policy 4.4.1-3 requires new development to minimize landform alteration, particularly bluffs, canyons, cliffs, and other significant resources. At the outset, the City's staff report does not acknowledge the site is a coastal bluff let alone a significant coastal resource.

Furthermore, the staff report does not justify how the proposed grading for the bridge abutments and parking lot minimizes landform alteration to the best extent feasible (Exhibit 4). The City should have analyzed alternative parking lot designs that minimize the total amount of landform alteration to the coastal bluff, particularly at the southern edge of the site adjacent to Coast Highway where large a retaining wall is proposed. The City should have analyzed alternative designs that minimized the height of retaining walls visible from public parks and coastal view roads. Such options could include a subterranean parking structure, minimizing disturbance to the bluff face and eliminating/minimizing the need for retaining walls or reducing the size of the parking structure among other options. The City should have analyzed design alternatives to the bridge such as obtaining additional parking on the west side of Superior Avenue or employing traffic calming measures to increase public safety on Superior Avenue, among other options. The City record does not contain any alternatives analysis for the parking structure, and the City's staff report does not contain any discussion of mitigating the proposed landform alteration. This runs counter to the LUP Policy 4.4.1-3. Overall, the City-approved project did not adequately apply the LUP policies pertaining to visual resource protection and landform alteration. Therefore, there is not an adequate degree of factual and legal evidence to support the City's decision to approve the local CDP as consistent with these policies.

The City claims the project is an independent project. The facts in the public record does not support this assertion. The City states Phase 1 and Phase 2 are "independent projects", that "Although these two projects are separate, they are immediately adjacent to one another" and "The design of the Superior Avenue Bridge project will account for the proposed improvements of the WCH Bridge project. Because of the proximity of these two projects, they will need to be closely coordinated." The City has stated continuously in print and in speech since 2018 Phase 2 has not been funded, is undefined and may never be build. While, the City can portray the Superior Bridge project and the WCH Bridge project as independent projects being administered separately, pursuant to CEQA, given the linkage between the Superior Bridge project and the WCH Bridge project, the City's action constitutes piecemealing. CEQA requires the analysis to address the whole of the action (project). Piecemealing occurs when lead agency's (city) "chop up" a project into smaller components so that it can turn a "blind eye" to reasonably foreseeable environmental impacts of the "whole" action.

The California Supreme Court established scenarios in which a project could be found to constitute project piecemealing¹⁷. Under this test, an agency must analyze a future expansion or other action as part of the initial project "if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." The City should have analyzed the future expansion of the project to determine if the City's analysis did or did not constituted piecemealing. There is no factual and legal evidence to in the public record to show the City considered if the project considered piecemealing.

The Intersection of Superior Avenue and WCH is part of a larger longer-term project to improve the efficiency of Coast Highway within the Coastal Zone. In 2020, the City Council reviewed plans by its Public Works Department to improve the intersection of Old Newport Boulevard and WCH. The Public Works Department made it known it had been working with Caltrans on a land exchange to facilitate these improvements which would have widened Coast Highway within sight of coastal bluffs and within 300 feet of Newport bay. The City is currently evaluating two applications for development projects¹⁸ within the Mariners Mile. Both projects are adjacent to Coast Highway a designated coastal view road, and within 300 feet of coastal bluffs and Newport bay. Both projects will impact views of the coastal bluffs from Coast Highway. As a condition of approval for each project, the City requires dedication of land for the ultimate right-of-way of Coast Highway. Yet, the City Council's stated policy is not to widen WCH within the Mariners Mile. The City should have conducted an analysis of the City's cumulative circulation system impacts on sensitive coastal resources.

The Project does not conform to the following standards of the Local Coastal Program (LCP) or the public access policies of the Coastal Act:

- The Project fails to "Protect, maintain, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources". (Section 21.10.020.B.)
- The Project fails to "To ensure that any development in the coastal zone preserves and enhances coastal resources; protects and enhances coastal views." (Section 21.10.020.G)
- Fences, hedges, and walls shall not be allowed or allowed with a reduced height when necessary to protect coastal resources such as public coastal view (Section 21.30.040.A.1). The proposed Project fails to meet this requirement.
- Wetlands shall have a minimum buffer width of one hundred (100) feet wherever possible. (Section 21.30.040.C.1). The proposed Project fails to meet this requirement.

¹⁷ This California Supreme Court test was adopted pursuant to its findings in Laurel Heights Assn v. Regents of Univ. of Cal. (1988).

¹⁸ 2510 WCH Mixed Use Project & the Newport Village Mixed Use Project

- The Project is not sited and designed to:
 - a. “protect public views to and along the ocean and scenic coastal areas; and:
 - b. “minimize visual impacts and be visually compatible with the character of surrounding areas”. (Section 21.30.060.C.1 & 3)
- The Project is not a Government Facility and does not qualify for an Exception to Height Limits (Section 21.30.060.D.16)
- The Project does not “ensures visibility across the corners of the intersecting streets”. (Section 21.30.130.A)
- The Project fails to demonstrate “The provision of public access shall bear a reasonable relationship between the requirement and the project’s impact and shall be proportional to the impact.” (Section 21.30A.040.A)
- The Project fails to demonstrate “There is no feasible less environmentally damaging alternative.” (Section 21.30B.010.G.2)
- The Project has not received an “Approval in Concept” from the Coastal Commission. (Section 21.52.015.1)
- The Project does not “Conforms to all applicable sections of the certified Local Coastal Program” (Section 21.52.015.F.1)
- The Project does not qualify for Relief from Implementation Plan Development Standards (Section 21.52.090.A)
- The Project does not qualify for a “Variance”. (Section 21.52.090.B.2)
- The Project does not qualify for “Considerations”. (Section 21.52.090.C)
- The Project does not meet the required “Findings”. (Section 21.52.090.D)

The following Local Coastal Program Implementation Plan Standards apply.

(Unless noted, the LCP Standards below are copied from the LCP-IP. Applicable language has been highlighted. These LCP Standards extend through the end of Section 3 (page 31))

PART 1. IMPLEMENTATION PLAN APPLICABILITY

21.10.020 Purpose.

The purposes of the Implementation Plan are to:

- A. Implement the policies of the Coastal Land Use Plan and the California Coastal Act of 1976;
- B. **Protect, maintain, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources;**
- C. Assure orderly, balanced use and conservation of resources within the coastal zone taking into account social and economic needs;

D. Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners;

E. Assure priority for coastal-dependent and coastal-related development over other types of development on the coast;

F. Encourage State and local cooperation in planning and development of mutually beneficial uses in the coastal zone; and

G. To ensure that any development in the coastal zone preserves and enhances coastal resources; protects and enhances coastal views and access; and ensure that growth, development, and environmental management is conducted a manner consistent with the provisions of the Coastal Land Use Plan. (Ord. 2016-19 § 9 (Exh. A)(part), 2016)

PART 3. SITE PLANNING AND DEVELOPMENT STANDARDS

21.30 PROPERTY DEVELOPMENT STANDARDS

21.30.010 Purpose and Applicability.

The purpose of this chapter is to ensure that development is consistent with the Coastal Land Use Plan, complies with the standards of this chapter, produces an environment that is harmonious with existing and future development, and protects the use and enjoyment of neighboring properties.

The standards of this chapter apply to all coastal zoning districts. These standards shall be considered in combination with the standards for each coastal zoning district in Part 2 (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards) and Part 4 of this Implementation Plan (Standards for Specific Land Uses). Where there may be a conflict, the standards that are most restrictive and/or most protective of coastal resources shall prevail.

21.30.040 Fences, Hedges, Walls, and Retaining Walls.

This section provides standards for the provision of fences, hedges, walls, and retaining walls for development in all coastal zoning districts.

A. Maximum Height Allowed.

1. Fences, Hedges, and Walls. Maximum heights of fences, hedges, and walls are shown in Table 21.30-1. Fences, hedges, and walls shall not be allowed or allowed with a reduced height when necessary to protect coastal resources such as public coastal view, public access, and sensitive habitat.

1. Retaining Walls. The maximum height of a retaining wall shall be eight feet measured from finished grade at the base of the wall, not including any required guardrails. A minimum horizontal separation equal to the height of the tallest retaining wall shall be provided between retaining walls, except that the required separation shall not be more than six feet. The above requirements shall not apply to retaining walls that are an integral part of principal structures. An increase in the height of a retaining wall may be requested in compliance with Chapter 21.52 (Coastal Development Review Procedures)

C. Wetland Buffers. A protective open space buffer shall be required to horizontally separate wetlands from development areas. Wetland buffers shall be of a sufficient size to ensure the biological integrity and

preservation of the wetland. Wetlands shall have a minimum buffer width of one hundred (100) feet wherever possible.

1. Exception: Smaller wetland buffers may be allowed only where it can be demonstrated that:
 - a. A one hundred (100) foot wide buffer is not possible due to site-specific constraints; and
 - b. The proposed narrower buffer would be amply protective of the biological integrity of the wetland given the site-specific characteristics of the resource and of the type and intensity of disturbance.

21.30.060 Height Limits and Exceptions.

A. This section establishes regulations for determining compliance with the maximum allowable height limits established for each coastal zoning district by Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards).

C. Increase in Height Limit.

1. Procedure. The height limits established in Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards) may be increased within specified areas with approval of a coastal development permit when all applicable findings are met in compliance with subsection (C)(3) of this section (Required Findings).
3. Required Findings. The review authority may approve a coastal development permit to allow an increase in the height of a structure above the base height limit only after first making all of the following findings in addition to the findings required in Section 21.52.015(F):
 - a. The project is sited and designed to protect public views to and along the ocean and scenic coastal areas; and
 - b. The project is sited and designed to minimize visual impacts and be visually compatible with the character of surrounding areas; and
 - c. Where feasible, the project will restore and enhance visual quality in visually degraded areas.

D. Exceptions to Height Limits. In cases where the exception to a height limit requires the approval of a coastal development permit, the review authority may approve a coastal development permit to allow an increase in the height of a structure above the base height limit as described below only after first making all of the findings in subsection (C)(3) of this section, in addition to the findings required in Section 21.52.015(F).

16. Government Facilities. Structures owned, operated, or occupied by the City or other governmental agency to provide a governmental service to the public may be allowed to exceed the height limit subject to the approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures) where the increase in height is necessary to accommodate design features required for the facility to function (e.g., lifeguard towers, tsunami warning sirens, architectural design features that accommodate emergency vehicles or essential equipment, etc.). (Ord. 2019-5 §§ 3, 4, 2019; Ord. 2016-19 § 1 (Exh. A)(part), 2016)

Appellant Notes – Not part of the LCP:

Similarly, the City of Newport Beach Municipal Code, Title 20 defines a Government Facility as “Governmental facility (land use)” means a structure owned, operated, or occupied by the City or other governmental agency to provide a governmental service to the public (e.g., City Hall, community recreation center, post office, library, etc.).”)

The project does not meet the definition of a government facility either in the City Municipal Code or LCP and is not allowed under the LCP to exceed the height limit subject to the approval of a coastal development permit. The Project is a Public Works project as defined by the Coastal Act.¹⁹

21.30.130 Traffic Safety Visibility Area.

A. Visibility at Corners of Intersections Required. Corner lots in all coastal zoning districts shall be developed in a manner that ensures visibility across the corners of the intersecting streets, alleys, and private driveways.

B. Traffic Safety Visibility Area Described. The traffic safety visibility area shall be described as a triangular-shaped area on a corner lot formed by measuring the prescribed distance from the intersection of the front and street side property lines, an intersecting alley, or an intersecting driveway and connecting the lines diagonally across the property making a triangular area. See Figure 3-5.

C. Area of Traffic Safety Visibility Area. The dimensions of a traffic safety visibility triangle shall be as follows and shall be subject to further review and approval of the City Traffic Engineer:

1. Standard intersection line of sight requirements shall apply at the intersection of public or private two street rights-of-way and at the intersections of commercial driveways and streets;

Chapter 21.30A PUBLIC ACCESS AND RECREATION

21.30A.040 Determination of Public Access/Recreation Impacts.

A. Relationship and Proportionality. The provision of public access shall bear a reasonable relationship between the requirement and the project's impact and shall be proportional to the impact.

B. Methodology. In determining a development's impact on public access, the City shall evaluate, at a minimum, the factors listed below. Any access dedication required as a condition of approval shall be supported by substantial evidence in the record and findings shall explain how the adverse effects that have been identified will be alleviated or mitigated by the dedication.

1. Land Use. The project's impact on use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation and other priority uses specified in California Public Resources Code Sections [30222](#) and [30223](#).
2. Demand for Access and Recreation. The project's impact upon the use and capacity of the identified access and recreation opportunities, including the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, beaches, coastal parks, trails, or coastal bluffs; the capacity of coastal access roads; public parking; and recreational support facilities and services.
3. Obstructions. Any aspects of the project that would block or impede public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs, including placement of structures, private streets, shoreline protective structures, barriers, guardhouses, gates, fences, or signs.
4. Visual Access. The project's impact on public access to public views to the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, beaches, coastal bluffs, and other scenic coastal areas.

¹⁹ Public Works, Definition - Public Resources Code, Division 20, California Coastal Act [30000-30900], Chapter 2. Definitions [30114. (b)]

5. Vessel Launching, Berthing, and Storage. The project's impact on vessel launching, berthing, and storage facilities and other facilities providing public access to the ocean, harbor, bay, channels, estuaries, salt marshes, and sloughs.
6. Shoreline Processes. The project's impact upon shoreline conditions, including beach profile; the character, extent, accessibility and usability of the beach; erosion or accretion; character and sources of sand; wave and sand movement; and any other anticipated changes to shoreline processes that have the potential to adversely impact public access to and along the shoreline and to the harbor, bay, channels, estuaries, salt marshes, sloughs, and coastal bluffs.
7. Other Impacts. Any other aspects of the project, which are likely to diminish the public's use of the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, beaches, coastal parks, trails, or coastal bluffs. (Ord. 2010-19 § 9 (Exh. A)(part), 2016)

Chapter 21.30B HABITAT PROTECTION

21.30B.010 Purpose.

This chapter is intended to:

- A. Protect environmentally sensitive habitat areas against any significant disruption of habitat values.
- B. Maintain and, where feasible, restore the biological productivity and the overall quality of coastal waters, streams, wetlands, estuaries, and lakes.
- C. Protect wetlands for their commercial, recreational, water quality, and habitat value. (Ord. 2016-19 § 9 (Exh. A)(part), 2016)
- G. Required Findings. No development shall be allowed in an ESHA or ESHA buffer area unless the following findings are made:
 1. The resource as identified will not be significantly degraded or disrupted by the proposed development and the development will be compatible with the continuance of the resource.
 2. There is no feasible less environmentally damaging alternative.
 3. All feasible mitigation measures capable of reducing or eliminating project-related impacts have been adopted. (Ord. 2016-19 § 9 (Exh. A)(part), 2016)

PART 5. PLANNING PERMIT PROCEDURES

21.50.025 Projects Bisected by Jurisdictional Boundaries.

- B. Projects Bisected by City and Coastal Commission Jurisdiction. Where a proposed development is located within both the Coastal Commission's and City's coastal development permit jurisdictions, coastal development permits are required by both the City and the Coastal Commission. Alternatively, if the applicant, the City and the Coastal Commission agree, the Coastal Commission can process a consolidated coastal development permit application pursuant to the procedures in Public Resources Code, Section [30601.3](#).

21.50.070 Environmental Review.

A. LCP Review. After acceptance of a complete application, the development shall be reviewed in compliance with the applicable policies of the LCP.

B. Investigation. Analysis of proposed development within or adjacent to ESHA, wetlands or other sensitive resources shall include an analysis of the individual and cumulative impacts of the development on coastal resources, define the least environmentally damaging alternative, and recommend modifications or mitigation measures to avoid or minimize impacts on coastal resources.

C. Environmental Documents.

1. Preparation by Qualified Specialist. All environmental documents, including surveys, assessments, reports and other technical studies, shall be prepared by a qualified resource specialist with technical expertise as appropriate for the environmental issues of concern.

2. Review of Documents. All environmental documents submitted as part of a development application shall be reviewed by a qualified City staff member, City-designated advisory committee, or consultant approved by, and under the supervision of, the City. Environmental documents prepared more than two years prior to the date of submittal shall be reviewed to determine if changes to the project and/or changes to the surrounding area of the project warrant additional environmental review in the form of an addendum, a supplemental environmental document, or a new environmental document.

3. Report. A qualified City staff member, advisory committee, or contracted employee shall prepare a written report with recommendations to the appropriate decision making official or body.

4. Recommendations. Written findings of fact, analysis and conclusions shall be included in any recommendation to approve, conditionally approve, or disapprove proposed development within or adjacent to ESHA, wetlands or other coastal resources. Any recommendations of approval shall include an identification of the preferred project alternative and required modifications or mitigation measures necessary to ensure conformance with the Local Coastal Program. (Ord. 2016-19 § 9 (Exh. A)(part), 2016)

21.52 COASTAL DEVELOPMENT REVIEW PROCEDURES

21.52.015 Coastal Development Permits.

A. Coastal Development Permit Required. Any development in the coastal zone shall require a coastal development permit issued by the City pursuant to Chapter [21.50](#), or the Coastal Commission, unless exempt or excluded from coastal development permitting requirements. Development undertaken pursuant to a coastal development permit shall conform to the plans, specifications, terms and conditions of the permit. The requirements for obtaining a coastal development permit shall be in addition to requirements to obtain any other permits or approvals required by other articles of this title, other City ordinances or codes or from any state, regional or local agency. If conflicts between this chapter and other city ordinances or codes arise, this chapter shall govern.

B. Permit Jurisdiction. After the effective certification of the LCP and the Coastal Commission's delegation of authority to the City, the City shall issue all coastal development permits for development not located within the Coastal Commission's permit jurisdiction.

1. Coastal Development Permit Issued by the Coastal Commission. Developments on tidelands, submerged lands, and public trust lands as described in Public Resources Code Section [30519\(b\)](#) and in deferred certification areas designated by the certified Local Coastal Program require a permit or

exemption issued by the Coastal Commission in accordance with the procedure as specified by the Coastal Act. Areas of Coastal Commission permit jurisdiction and deferred certification areas are generally depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map.

- a. **Approval in Concept.** All development in areas where the Coastal Commission retains coastal development permit authority shall require conceptual approval from the City prior to application to the Coastal Commission. An approval in concept indicates that the proposed development conforms in concept to all City land use and development regulations, including any applicable discretionary actions, and therefore entitles the applicant to apply to the Coastal Commission for a coastal development permit.

F. **Findings and Decision.** The review authority may approve or conditionally approve a coastal development permit application, only after first finding that the proposed development:

1. **Conforms to all applicable sections of the certified Local Coastal Program;**
2. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.

21.52.090 Relief from Implementation Plan Development Standards.

A. Purpose. The purpose of this section is to provide relief from the development standards of this Implementation Plan when so doing is consistent with the purposes of the certified Local Coastal Program and **will not have an adverse effect, either individually or cumulatively, on coastal resources.**

B. Applicability. Any development standard of this Implementation Plan may be modified or waived through the approval of a coastal development permit, except: allowed and prohibited uses; residential density; nonresidential floor area ratios; specific prohibitions (for example, prohibitions intended to protect coastal resources, prohibited barriers to public access, limits on the use of protective structures, prohibited materials, prohibited plant species, prohibited signs, etc.); or procedural requirements.

1. Modifications. Minor deviations for the following development standards may be permitted when practical difficulties associated with the property and the strict application of the Implementation Plan result in physical hardships:
 - a. Height modifications from exceptions identified in Part 3 of this title (Site Planning and Development Standards). The following modifications are limited to not more than a ten (10) percent deviation from the standard being modified:
 - i. Chimneys, rooftop architectural features, and vents in excess of the exception to the allowed height limits identified in Part 3 of this title (Site Planning and Development Standards);
 - ii. Flag poles in excess of the exception to the allowed height limits; and
 - iii. Heights of fences, hedges, or walls (except retaining walls).
 - b. Setback Modifications. The following modifications are limited to not more than a ten (10) percent deviation from the standard being modified:
 - i. Encroachments in front, side, or rear setback areas while still maintaining the minimum clearances required by Section [21.30.110](#) (Setback Regulations and Exceptions). Exceptions include the following:
 - (A) Modifications shall not be allowed for encroachments into alley setbacks; and
 - (B) Modifications shall not be allowed for encroachments into bluff setback areas.
 - ii. Structural appurtenances or projections that encroach into front, side, or rear setback areas.

- c. Sign Modifications. Modifications shall be allowed for an increase in allowed number and area of signs and an increase in allowed height modifications for pylon signs up to a maximum of twenty-four (24) feet, and up to a maximum of eight feet for monument signs.
 - d. Retaining Wall Modifications. Modifications shall be allowed for an increase in the allowed height of retaining walls up to a maximum of ten (10) feet.
 - e. Other Modifications. Except as otherwise provided, the following modifications are not limited in the amount of deviation from the standard being modified:
 - i. Distances between structures located on the same lot;
 - ii. Landscaping standards in compliance with Section [21.30.075](#) (Landscaping), except for subsection (B)(3);
 - iii. Size or location of parking spaces, access to parking spaces, and landscaping within parking areas, provided the modification does not result in an adverse impact to public on-street parking spaces;
 - iv. Increase in allowed floor area of additions for uses that have nonconforming parking; provided required parking for the additional square footage is provided and other requirements per Section [21.38.060](#) (Nonconforming Parking).
2. Variances. Waiver or modification of certain standards of this Implementation Plan may be permitted when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same coastal zoning district.
 3. Modifications and Waivers Authorized Elsewhere. This section is not applicable when a modification or waiver to a development standard is specifically authorized elsewhere in this Implementation Plan.
- C. Considerations. In reviewing a coastal development permit application for development requesting a modification or variance, the review authority shall consider the following:
1. Whether or not the development is consistent with the certified Local Coastal Program to the maximum extent feasible; and
 2. Whether or not there are feasible alternatives that would provide greater consistency with the certified Local Coastal Program and/or that are more protective of coastal resources.
- D. Findings and Decision. The review authority may approve or conditionally approve a modification or waiver to a development standard of this Implementation Plan only after first making all of the following findings:
1. The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Implementation Plan results in physical hardships; or
 2. The granting of the variance is necessary due to special circumstances applicable to the property, including location, shape, size, surroundings, topography, and/or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same coastal zoning district; and
 3. The modification or variance complies with the findings required to approve a coastal development permit in Section [21.52.015\(F\)](#);
 4. The modification or variance will not result in development that blocks or significantly impedes public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs;

5. The modification or variance will not result in development that blocks or significantly impairs public views to and along the sea or shoreline or to coastal bluffs and other scenic coastal areas;
6. The modification or variance will not result in development that has an adverse effect, either individually or cumulatively, on coastal resources, including wetlands, sensitive habitat, vegetation, or wildlife species; and
7. The granting of the modification or variance will not be contrary to, or in conflict with, the purpose of this Implementation Plan, nor to the applicable policies of the certified Local Coastal Program. (Ord. 2019-5 § 6, 2019)

Section 4. AN ADDENDUM TO THE PRIOR CERTIFIED MITIGATED NEGATIVE DECLARATION (SCH 2019099074) IS NOT THE APPROPRIATE CEQA DOCUMENT FOR THE PROJECT

City Staff and Planning Commission incorrectly determined an Addendum to the prior MND appropriate for the project following written comment to the Planning Commission which disclosed the presence and project impact to a Special Tree (a Historic Tree) at the northeast intersection of Superior Avenue and WCH in prominent public view. The City Council G Series Policy identifies Special Trees as significant resources. The City provided the following response to comments:

Response to Comment #38

As noted in the 2019 MND, and in Appendix B-1 of the MND, the trees that are located in the existing parking lot are introduced and ornamental trees, and these trees will be replaced with new trees as well as drought-tolerant landscaping. New trees will be installed in accordance with the tree planting specifications and street tree designation list by the City of Newport Beach. There is one "Dedicated Special Tree" as identified in the City Council Policy G-1. Staff has been coordinating with the City Arborist to relocate or replant this one tree. The relocation of this Dedicated Special Tree will require approval from the City's Parks, Beaches and Recreation Commission.

Response to Comment #87

The City's "Retention, Removal, and Maintenance of City Trees" document defines "Special Trees" as "Landmark, Dedicated, or Neighborhood trees, because they have historical significance, and/or contribute to, and give character to, a location or to an entire neighborhood." There is one "Dedicated Special Tree" as identified in the City Council Policy G-1. Staff has been coordinating with the City Arborist to relocate or replant this one tree. The relocation of this Dedicated Special Tree will require approval from the City's Parks, Beaches and Recreation Commission. The statement that all trees on the Project site are ornamental is in reference to the species of trees present, and is wholly accurate.

As cited in CEQA Guidelines §15164 below, an addendum is appropriate only if these minor technical changes or modifications do not result in any new significant impacts or a substantial increase in the severity of previously identified significant impacts. The City acknowledges the impact to the Historic Tree. Therefore, some other form of CEQA document is required for the project.

Addendum to Mitigated Negative Declaration No. ND2019-002

The City correctly determined there have been change to the project or substantial changes in circumstances or new information that warrant subsequent environmental analysis in accordance with the California Environmental Quality Act (CEQA). The City has analyzed the changes to the project, potential substantial

changes in circumstances and new information and determined an Addendum to the prior Mitigated Negative Declaration (MND) is the appropriate CEQA document for the project.

CEQA Requirements

Use of an Addendum

Under CEQA, an addendum to an adopted Negative Declaration (ND) or MND is needed if minor technical changes or modifications to the proposed project occur (CEQA Guidelines §15164). An addendum is appropriate only if these minor technical changes or modifications do not result in any new significant impacts or a substantial increase in the severity of previously identified significant impacts. The addendum need not be circulated for public review (CEQA Guidelines §15164[c]); however, an addendum is to be considered by the decision-making body prior to making a decision on the project (CEQA Guidelines §15164[d]).

Thresholds of Significance

A threshold of significance is an identifiable quantitative, qualitative, or performance level of a particular environmental effect that would normally be significant. Environmental standards (e.g., air or water quality standards) meeting certain requirements can be used as thresholds of significance. Cal. Code Regs. tit. 14, § 15064.7. Thresholds of significance are used in both Initial Studies and EIRs to determine whether a proposed project's impacts are significant.

The CEQA Guidelines encourage Lead Agencies to voluntarily adopt thresholds of significance. Agency thresholds developed for general use must be adopted through a public review process and supported by substantial evidence. However, most Lead Agencies establish thresholds of significance on a project-by-project basis, rather than formally adopting them in advance. In either event, Lead Agencies should explicitly disclose which thresholds they are utilizing and briefly explain how compliance with the threshold means that project's impacts are less than significant, particularly for greenhouse gas thresholds. See *Ctr. for Biological Diversity v. Dept. of Fish & Wildlife*, 361 P.3d 342 (2015). Also, the Lead Agency must still consider any substantial evidence indicating a project's environmental effects may be significant notwithstanding compliance with the threshold. Cal. Code Regs. tit. 14, § 15064(b)(2).

Change in Circumstances & New Information

- The discovery in January 2020 that the project is part of a larger project. The existence of Phase 2 was denied in November 2019 and not disclosed in the MND or the 2020 Addendum to the MND.
- The fact the City had prepared preliminary design plans for Phase 2 and used these plans in grant applications prior to the approval of the 2019 MND and Coastal Development permit is new information withheld from the public. When the whole of the action is analyzed in a CEQA/NEPA document, the project will result in numerous significant unavoidable adverse environmental impacts.
- The fact that the City received partial funding for Phase 2 in 2020 is new information. This information further validates the active status of Phase 2. When the whole of the action is analyzed in the CEQA/NEPA document, the project will result in numerous significant unavoidable adverse environmental impacts.
- The fact that the project will result in removal of "Special Trees" protected by the City's G-Series Policies was not disclosed in the MND or Addendum. This represents a significant change in circumstances. The removal of Special Trees is a significant unavoidable adverse impact.
- The discovery in 2020 that a scenic easement exists on Sunset Ridge Park which prevents the construction all structures is new information. The project will construct a bridge abutment which connects to a bridge. This structure is inconsistent with this easement. This represents a significant land use and visual impact.
- The discovery in 2020 that a land use restriction limiting the future use of the parking lot Assessor parcel to a parking lot is new information. The project will construct a bridge abutment which connects to a bridge. This use is inconsistent with this land use restriction. This represents a significant land use impact.

- The fact the Project requires federal permitting was withheld from the public until it was discovered in 2020 as a result of a public information request. The federal environmental concerns were not identified in the MND or its Addendum. In addition, the existence of Phase 2 was denied by the City in information submitted to Caltrans in 2019-2020. Erroneous information resulted in Caltrans preparing a NEPA Categorical Exclusion for the project. Had Caltrans been informed about Phase 2 it is probable Caltrans would have concluded the project would not have qualified for a Categorical Exclusion and that Caltrans would have assumed the Lead agency role in preparing a combined NEPA/CEQA document consistent with Caltrans policy.
- The public relied upon the City's Staff report and Findings that the 2019 project Coastal Development Permit complied with the requirements of the LCP, and that all required analysis had been completed to support the required Findings. The discovery in 2020 that the 2019 project does not comply with many of the LLCP policies not listed in the City Staff report MND or Resolution for the Coastal Development Permit is new information. This new information shows the project is not consistent with numerous LCP policies and development standards. These inconsistencies have not been evaluated in the MND or its Addendum.
- The City represented to the public the low level of usage at Sunset Ridge Park was due to the small size of the parking lot. The City said it was concerned about pedestrians and bicycles safety crossing Superior Avenue via the crosswalk and that a bridge was needed to increase public safety, thereby increasing park usage. The public relied on these representations. The discovery in 2020 that the capacity of the parking lot is not the cause of the alleged low-level use at Sunset Ridge Park is new information which questions the need for and intent of the project. This information exposes the true goal of the project, to widen the intersection of Superior Avenue and WCH, remove the sidewalks and construct pedestrian and bicycle bridges to improve the efficiency and capacity of this intersection. The true intent of the project will significantly impact the analysis required by CEQA/NEPA, as well as the analysis required by the LCP.
- In 2020, the City initiated a General Plan Circulation Element update. The Circulation Element Update could result in City-wide significant adverse impacts including impacts to sensitive coastal resources. The City acknowledges the project's potential to result in significant adverse impacts and retained a consultant to prepare an EIR. The project's CEQA document must consider the General Plan update and address it accordingly.
- The City Council modified the scope of the project on August 25, 2020. These changes are not incorporated in the Addendum to the MND. This modification merges the Phase 1 and Phase 2 projects creating one project being constructed in two phases. The linkage has the potential for significant adverse unavoidable impacts to sensitive coastal resources. An EIR is being prepared for Phase 2.
- In November 2019 the public was told the project did not meeting the LCP's 100-foot wetland buffer setback from the Superior Avenue wetlands. The Staff report and MND informed the public this impact was not considered a significant land use impact because there would be a less than significant biological impact to the wetlands with mitigation, in satisfaction of the LCP land use buffer policy. This was wrong. The public relied upon the City to correctly interpret the LCP. The discovery in 2020 that the project does not comply with this LCP Policy represents a significant land use impact, unless special circumstances are demonstrated. The City/MND claimed special circumstances, but failed to provide the analysis in support of this claim, a requirement of the LCP.
- In 2019 the City informed the public the project was consistent with all LCP policies and development standards and that the height of the bridge, bridge abutments and retaining walls were permitted by the LCP and therefore, the project did not represent a significant land use impact to coastal resources. The City also represented that the only views regulated by the LCP were views toward the ocean from public property. Because the City is responsible for implementing its certified LCP, the public relied on these representations. Upon independent review of the Coastal Act/LCP in 2020 the Coastal Act/LCP does not limit view direction. It is clear the project will result in significant adverse unavoidable visual impacts to coastal resources. The public was not told the City did not consider the site a coastal bluff; the City did not consider the site a sensitive coastal resource area; and the City had incorrectly classified the project as a Government Facility in order to qualify the project for height variances. It is clear the project has the potential to result in significant unavoidable adverse environmental visual impacts to coastal resources.

- The public was told by the City in 2019 the scope of the MND was adequate to address the environmental concerns of the Coastal Development Permit. The public relied on this Finding. The City and public learned from the Coastal Commission in 2020 through language in an appeal of another City approved Coastal Development Permit that **“the standard of review for this appeal is the certified LCP. It should also be noted that CEQA policies are not the standard of review for this appeal”** This statement by the Coastal Commission represents a significant change in the scope of environmental analysis required to satisfy a Coastal Development Permit. The environmental analysis has the potential to result in numerous potentially significant adverse unavoidable impacts to coastal resources.
- The City is incorrectly relying on the 2019 MND prepared for the conceptual design of a different project with the addition of an Addendum prepared for the proposed project. Changes in circumstances including the public's discovery of new information which has the potential to result in new significant environmental effects, as well as potential new significant impacts disqualify the use of the combined MND and Addendum for the project.

Thresholds of Significance Response:

The City must apply any City adopted Thresholds of Significance, including the CEQA Checklist Guidelines Appendix G questions and any other thresholds established in the General Plan, Municipal Code or LCP. In this case, thresholds are provided by the intent of the LCP, the governing document for this area which states “To ensure that any development in the coastal zone preserves and enhances coastal resources; protects and enhances coastal views ...”.

The Municipal Code incorporates the LCP which contains a Land Use Plan and Implementation Plan. Development within the Coastal Zone is governed by the LCP. The LCP requires that all development be consistent with the General Plan and Municipal Code and that the Land Use Policies and Implementation Plan standards of the LCP supersede the City General Plan and Municipal Code. The Coastal Commission has told Staff this, yet Staff has failed to take heed. In the case of The Garden Office and Parking Structure project where a similar staff analysis and Coastal Development was approved by the City, then appealed to the Coastal Commission, the Coastal Commission noted: **“the standard of review for this appeal is the certified LCP. It should also be noted that CEQA policies are not the standard of review for this appeal.”** Therefore, the proposed project fails to comply with the land use policies and implementation standards of the LCP and fails to provide the environmental analysis required by the LCP (21.50.070 Environmental Review) in order to make the required Coastal Development Permit Findings. Even if the Addendum to the prior MND were to be utilized as the sole environmental document, which it should not, the City has failed to conduct the environmental analysis required by the LCP. The Coastal Development Permit should be denied.

Fair Argument Standard

The fair argument standard of review is a unique version of the substantial evidence standard applied to Negative Declaration decisions Cal. Code Regs. tit. 14, § 15064(f)(1); *Berkeley Hillside Pres. v. City of Berkeley*, 343 P.3d 834, 853 (2015).

Under the fair argument standard, if project opponents have substantial evidence supporting a fair argument that a project may have a significant environmental effect, an EIR must be prepared, even if the Lead Agency's substantial evidence indicates lack of significant environmental effect. See 14 Cal. Code Regs § 15064(a)(1). Under the more deferential traditional substantial evidence standard of review typically applied to EIR contents, a Lead Agency analysis will be upheld as long as it supported by substantial evidence, even if project opponents have substantial evidence that would lead to a different conclusion. Because of these different standards of review, applicants and Lead Agencies often default to preparing EIRs if there is any controversy or opposition to a proposed project, even if it would otherwise qualify for a Negative Declaration.

Substantial evidence includes facts, fact-based assumptions, and expert opinion. It does not include argument, speculation, or unsubstantiated opinion. Public controversy about a project alone is not substantial evidence but may be used to require an EIR in marginal cases when substantial evidence of a significant environmental impact is unclear. Cal. Code Regs. tit. 14, §§ 15064(f)(4), 15384. Substantial evidence includes facts, fact-based assumptions, and expert opinion. It does not include argument, speculation, or unsubstantiated opinion. Public controversy about a project alone is not substantial evidence but may be used to require an EIR in marginal cases when substantial evidence of a significant environmental impact is unclear. Cal. Code Regs. tit. 14, §§ 15064(f)(4), 15384.

Fair Argument Response:

A fair argument can be made the project will have a potentially significant impact on land use. The proposed Project requires variances for retaining wall height, the bridge height, bridge abutments abutment height all of which exceed LCP development Implementation Plan Development Standards. The proposed Project does not meet the requirement of Section 21.30.040.C which requires that all wetlands shall have a minimum buffer width of one hundred (100) feet wherever possible. The proposed Project encroaches upon and impacts the Superior Avenue Wetlands. The project will result in the potential for a significant impact to land use because the project is inconsistent with the City General Plan (example G-Series Policies), and Municipal Code/LCP - IP requirements.

A fair argument can be made the project bridge, abutments, retaining walls, and landscape (trees) will have a significant adverse visual impact from public viewpoints including adjacent segments of West Coast Highway, Superior Avenue, a designated "Coastal View Road", Sunset View Park, a designated "Public View Point" and Superior Ridge Park, a designated "Public View Point".

The analysis in the CEQA Addendum:

- Fails to address the whole of the project.
- Fails to adequately address cumulative impacts.
- Fails to identify the project's inconsistency with the LCP.
- Fails to address the project's failure to meet the 100' buffer from the Superior Avenue Wetlands required by the LCP Implementation Plan and LCP Land Use Policy 4.1.1-5 which states: "Design land divisions, including lot line adjustments, to preclude new development within and minimize impacts to ESHAs." and LCP Land Use Policy 4.1.1-17 which states: "In conjunction with new development, require that all preserved ESHA, buffers, and all mitigation areas, onsite and offsite, be conserved/dedicated." This impact is identified in the CDP Resolution.
- Fails to address the project's visual impacts from: 1.) various public locations along Superior Avenue, a designated Coastal View Road toward the ocean; and 2.) various public location along PCH and along Balboa Blvd. looking inland to toward Superior Avenue and the coastal bluffs.
- Fails to discuss the impact of proposed vegetation (trees) on views.
- Fails to address the impact to "Special Trees" covered by the City's G-Series Policies.
- Fails to address the impact of increased pedestrian traffic crossing West Coast Highway generated by the increased parking capacity of the proposed parking lot.

Expert Opinion

The appellant, an individual, is the President of Environmental & Regulatory Specialists, Inc., a Newport Beach based firm which provides CEQA services. The appellant is considered an expert in the field, having provided CEQA services for over 45 years.

The appellant's expert opinion is that an adequate CEQA analysis based on the current project description will conclude the proposed Project (Phase 1) will result in significant adverse Land Use and Visual impacts requiring the need to prepare an Environmental Impact Report.

The appellant's expert opinion is that an adequate CEQA analysis based on the complete and correct project description (Phase 1 & 2) will conclude the proposed Project will result in significant adverse Land Use, Visual, Public Safety and Transportation impacts requiring the need to prepare an Environmental Impact Report. (Note: an EIR is already in process for Phase 2 of the project).

Project Description/Piecemealing

The project description must include the project objectives, project location, and project characteristics. The project description "should not supply extensive detail beyond that needed for evaluation and review of the environmental impact" (Cal. Code Regs. tit. 14, § 15124). See Cal. Pub. Res. Code § 21003(c) and *Citizens for a Sustainable Treasure Island v. City & Cty. of S.F.*, 174 Cal. Rptr. 3d 363, 377–79 (Ct. App. 2014).

The CEQA process is often required to start early in the development process, and consequently detailed project information is not always known. Therefore, if flexibility or project options must be incorporated into the project description, the EIR should ensure that such options are disclosed and fully considered in the environmental analysis. *SOMCAN v. City and County of San Francisco*, 33 Cal. App. 5th 321 (Ct. App. 2019).

The project description should focus upon the underlying physical changes, even where the project includes planning or regulatory amendments. Cal. Code Regs. tit. 14, § 15378(d). The project description is also required to include a list of permits and approvals, to the extent known. The project description must also include a list of related environmental review and consultation requirements. See *Banning Ranch Conservancy v. City of Newport Beach*, 392 P.3d 455, 466–67 (2017). The statement of project objectives should be carefully crafted to help later define a reasonable range of alternatives that could feasibly achieve them and may contain an underlying fundamental purpose. In *re Bay-Delta etc.*, 184 P.3d 709, 723–24 (2008). While applicants may submit a statement of their project objectives, the project description should ultimately reflect the Lead Agency's goals and objectives.

Applicants should also ensure that any supporting infrastructure improvements have been disclosed and analyzed that are a reasonably foreseeable consequence of the project.

Project opponents sometimes assert that a singular project has been impermissibly split into several smaller projects (referred to as piecemealing). *E. Sacramento Partnerships for a Livable City v. City of Sacramento*, 209 Cal. Rptr. 3d 774, 784–85 (Ct. App. 2016). The project description should therefore be sure to include any reasonably foreseeable development that is anticipated to occur as a result of the project as described in entitlement applications, or other materials or statements released by the project applicant (e.g., roadway widening, tunnels, sewer lift stations, new water sources, and other infrastructure, **as well as future project phases**).

Integrating CEQA with Other Environmental Laws

To promote efficiency and reduce redundant duplicative environmental reviews, Lead Agencies are required to integrate CEQA, to the extent feasible, with other federal, state, and local environmental review requirements pursuant to Cal. Code Regs. tit. 14, § 15124(d), including the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., and other environmental laws.

NEPA - State and local agencies are encouraged to prepare joint CEQA/NEPA environmental documents. When CEQA and NEPA requirements differ, the most stringent requirement of the two laws should be followed. Cal. Code Regs. tit. 14, §§ 15221, 15222.

Project Description/Piecemealing Response

The true scope and objectives of the project are to make intersection improvements to Superior Avenue and West Coast Highway; to expand the existing parking lot at Superior Ave.; to increase usage of Sunset Ridge Park and in so doing, increase pedestrian and bicycle safety at the intersection of Superior Avenue and West Coast Highway. The City has secured federal grants for the construction of Phase 1 and local Measure M2 grants for the design of Phase 2. City staff is continuing to seek grant funding opportunities for the construction of Phase 2. Final design plans for Phase 1 (the proposed Project) have been prepared and are awaiting approval. The City has contracted for planning, design and CEQA services for Phase 2. The Project Description:

- Fails to identify the true scope and objectives of the project
- Fails to provide a complete project history of all phases of the project.
- Fails to identify federal and state agency involvement and environmental review requirements.
- Fails to adequately scope the analysis to incorporate the project changes to Phase 1 approved by the City Council on August 25, 2020.
- Fails to identify the project requires a Variance for relief from LCP Development Standards (height limits)
- Fails to describe project improvements adequately for the purpose analyzing General Plan, Municipal Code, LCP compliance and CEQA analysis

The City is Guilty of Piecemealing

The 2019 project and the proposed Project are part of a larger project, the West Coast Highway Widening and Bridge project (WCH Bridge project). The City is portraying these projects as independent projects being administered separately. Numerous documents exist linking these two projects prior to the approval of the 2019 project through August, 2020 (See Sections 5 & 6 below).

On October 18, 2018 The City submitted an application for OCTA's Comprehensive Transportation Funding Program – Intersection Capacity Enhancement Category (Planning Phase). The application is titled "City of Newport Beach: West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2)". The Phase 2 project is clearly active in 2018. The 27-page application contains detailed exhibits (see Figure 10) and specific information describing the planned improvements.

October 23, 2019 The City submitted an application for OCTA's Comprehensive Transportation Funding Program – Intersection Capacity Enhancement Category (Planning Phase). The application is titled "City of Newport Beach: West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2)". The Phase 2 project is clearly active in 2019. The 27-page application contains detailed exhibits (see Figure 10) and specific information describing the planned improvements.

In addition, project phases are clearly stated in the Fiscal Year 2020-21 Through 2025-26 Capital Improvement Program and the entirety of the project is described on August 25, 2020 prior to the Zoning Administrators actions on the project.

While the City can portray these projects as independent projects being administered separately, pursuant to CEQA, given the linkage between the Superior Bridge project and the WCH Bridge project, the City's action constitutes piecemealing. CEQA requires the analysis to address the whole of the action (project). Piecemealing occurs when lead agency's (city) "chop up" a project into smaller components so that it can turn a "blind eye" to reasonably foreseeable environmental impacts of the "whole" action.

CEQA's prohibition on "piecemealing" of environmental review is animated by a basic recognition that the "whole" of an action under review is greater than its individual parts viewed separately. (The same important insight also underlies CEQA's requirement to analyze a project's cumulative impacts.)

Therefore, the City's actions on both the 2019 project and the proposed project raises significant new issues which significantly exceed the levels of impact identified in the previous MND or its Addendum.

Section 5. THE CEQA ADDENDUM/MND FAILS TO ADDRESS WHOLE OF THE ACTION. THE PROPOSED PROJECT IS PART OF A LARGER PROJECT

The 2019 project and the proposed Project are part of a larger project, the West Coast Highway Widening and Bridge project (WCH Bridge project). The City is portraying these projects as "independent" projects being administered separately. Numerous documents exist linking these two projects prior to the approval of the 2019 project through August, 2020. Below are a few examples:

- **Fiscal Year 2014-5 Capital Improvement Program²⁰**

"Traffic

Projects organized under Traffic include traffic signal system maintenance and improvements, neighborhood traffic management, pedestrian improvements and signage. Projects within this category approximate \$5 million and major highlights include:

Bike Lane Projects

East Coast Highway Traffic Signal Rehabilitation`

- ☐ Mariners Mile Street Configuration and Land Use Review
- ☐ Pedestrian Crossings and Improvements at Superior and Pacific Coast Highway
- ☐ Traffic Signal Modernization
- ☐ Traffic Signal Rehabilitation, Equipment Maintenance and Modeling
- ☐ Traffic Signage, Striping, and Parking Lot Improvements"

"This project begins work on studying possible pedestrian overcrossings and intersection improvements at the intersection of Coast Highway and Superior Avenue. Work will include concept development, coordination with the Orange County Transportation Authority (OCTA) PCH Corridor Study, coordination with Sunset Ridge and Sunset View park developments, possible grant funding application, and working with State agencies on any necessary permits."

²⁰ Fiscal Year 2014-5 Capital Improvement Program, pg. 46: [file:///B:/City%20of%20Newport%20Beach%20-%20Matters%20-%20General%20Plan/Superior%20Bridge/FiscalYear201415CapitalImp%20\(sec%20pg%2046\).pdf](file:///B:/City%20of%20Newport%20Beach%20-%20Matters%20-%20General%20Plan/Superior%20Bridge/FiscalYear201415CapitalImp%20(sec%20pg%2046).pdf)

- **March 2018 quotes by City officials and consultants:**²¹

City Councilman Brad Avery, now Mayor Brad Avery who represents District 2, which covers the intersection, announced the grant at the Feb. 27 Council meeting.

“The hope is that, down the line, another pedestrian and bicycle bridge across PCH will also constructed, he added. It will more easily connect people and cyclists to the beach and Balboa Peninsula.”

“More links to the coast is good,” Avery said.

At the February meeting, Avery noted that there was a lot of work “behind the scenes” on the getting the grant. “City staff worked hard to get that grant”, he commented.

“The bridge has been under consideration for a while,” Sommers said.

“The concept has been around for at least a decade”, Petros said.

Superior Avenue at PCH has long been known to be a critical intersection in the city, Petros said. Discussions about how traffic can be relieved there, what can be done and what cost began early on.

When he was on Council, Petros started to seek meetings with OCTA, Orange County Supervisor for Newport Beach Michelle Steel, and other interested parties.

During City Council's “early look” at the 2018-19 Capital Improvement Program on Tuesday, the bridge was mentioned in the Lower Sunset View Park Concept/Overcrossings project. The total \$5.7 million budget includes both crossings (over Superior and eventually another over PCH) and landings and some additional site work, Public Works Director Dave Webb explained.

- **October 2018** – On October 17, 2018 the City submitted an application for OCT's Comprehensive Transportation Funding Program – Intersection Capacity Enhancement Category (Planning Phase). The application is titled “City of Newport Beach: West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2).” The Phase 2 project is clearly active in 2018. The 27-page application contains detailed exhibits and specific information describing the planned improvements.
- **October 2019** - October 23, 2019 The City submitted an application for OCTA's Comprehensive Transportation Funding Program – Intersection Capacity Enhancement Category (Planning Phase). City of Newport Beach: West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2). The Phase 2 project clearly remains active in 2019. The 27-page application contains detailed exhibits and specific information describing the planned improvements.
- **Fiscal Year 2020-21 Through 2025-26 Capital Improvement Program**²²

“Superior Avenue and West Coast Highway Intersection Improvements

²¹ Newport Beach Independent March 15, 2018: [Grant Awarded to Construct Pedestrian, Bicycle Bridge - Newport Beach News](#)

²² Fiscal Year 2020-21 Through 2025-26 Capital Improvement Program, pg.71:
<file:///C:/Users/User/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/K5DE2ALX/ADOPTEDCIPFiscalYear202021%20pg%2071.pdf>

This multi-year project involves conceptual plan development, environmental clearance, final design, permitting and construction efforts. **Phase 1 improvements** include a new pedestrian and bicycle bridge overcrossing Superior Avenue, a new larger parking lot and extending upper Sunset View park. **Phase 2 improvements** include widening and re-aligning West Coast Highway and a second pedestrian and bicycle bridge overcrossing West Coast Highway. City staff was successful in securing federal grants for the construction of Phase 1 and local Measure M2 grants for the design of Phase 2. City staff will continue to seek grant funding opportunities for the construction of Phase 2. Final construction documents are being prepared by consultants.”

- **August 21, 2020, The Week in Review**²³

“The City Council will receive an update on proposed improvements to West Coast Highway and Superior Avenue which includes widening of Pacific Coast Highway (PCH) and pedestrian bridges across both Superior Avenue and PCH. This project received a \$1.2 million dollar grant from OCTA. Staff is requesting modifications to the original conceptual design on Superior to integrate and coordinate with the bridge structure crossing PCH. This item is also on the regular City Council agenda for additional funding and approval of the new conceptual design.”

- **Newport Beach City Council Staff Report August 25, 2020, Agenda Item #12**²⁴

The WCH Bridge Project is described in the August 25, 2020 staff report as follows:

“The WCH Bridge project involves widening West Coast Highway to increase vehicular capacity and constructing a pedestrian bridge across West Coast Highway. **With the completion of both projects, sidewalks and two crosswalks at this intersection can be eliminated as pedestrians will be able to use the two new bridges and ramps. Eliminating two crosswalks and moving the pedestrians from the street level to the bridges and ramps will significantly improve pedestrian access and safety.** This will also greatly improve traffic signal operation and vehicular circulation by allowing more traffic signal green time for vehicles traveling through the intersection. **The design of the Superior Avenue Bridge project will account for the proposed improvements of the WCH Bridge project.**” (Pg. 12-3)

“At the time that the conceptual design for the Superior Avenue Bridge project was approved, staff was not actively working on the WCH Bridge project. **A staircase from the West Coast Highway sidewalk to the top of the Superior Avenue bridge was proposed as part of the approved conceptual design. This staircase would eventually need to be removed to accommodate the widening and realignment of West Coast Highway. Since funding for the design of the WCH Bridge project is now available, staff recommends eliminating the temporary staircase from the Superior Avenue Bridge project.** In the interim, the general public will be able to access the parking lot and Superior Avenue bridge via the existing sidewalks.” (Pg. 12-4)

A detailed description of the WCH Widening and Bridge project's work plan including anticipated design features and anticipated environmental (CEQA) analysis is contained in Attachments B and C (Amendments to Professional Service Agreements) and Attachment D (Concrete Arch Bridge Conceptual Design) to the Staff Report.

²³ The Week in Review, August 21, 2020: <https://www.newportbeachca.gov/home/showpublisheddocument?id=67445>

²⁴ Newport Beach City Council Staff Report August 25, 2020, Agenda Item #12
<https://ecms.newportbeachca.gov/Web/DocView.aspx?dbid=0&id=2564600&page=1&cr=1>

Section 6. PROJECT HISTORY

- **2014** - Pedestrian Crossings and Improvements at Superior and Pacific Coast Highway have been identified in City Capital Improvement Programs (CIP) for many years. A quote from the **2014-15 CIP** is provided below:

Pedestrian **Crossings** and Improvements at Superior and Pacific Coast Highway

“**This project begins** work on studying possible pedestrian **overcrossings** and intersection improvements at the intersection of Coast Highway and Superior Avenue. Work will include concept development, coordination with the Orange County Transportation Authority (OCTA) PCH Corridor Study, coordination with Sunset Ridge and Sunset View park developments, possible grant funding application, and working with State agencies on any necessary permits.”

- **May 2015** – The City submits a grant application with Caltrans pursuant to the Active Transportation Program (ATP). The ATP is a competitive statewide grant program created under Senate Bill 99 (Chapter 359) and Assembly Bill 101 (Chapter 354). The main purpose of this program is to encourage and increase the use of non-motorized active modes of transportation such as walking, bicycling and to promote a healthy lifestyle to name a few. The application describes the project as the Superior Bridge only (no new parking lot).
- **May 2016** – The City submits an application for OCTA's Bicycle Corridor Improvement Program for Newport Beach Bicycle and Pedestrian Bridge Project.
- **October 17, 2018** – On October 17, 2018 the City submitted an application for OCT's Comprehensive Transportation Funding Program – Intersection Capacity Enhancement Category (Planning Phase). The application is titled “City of Newport Beach: West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2).” The Phase 2 project is clearly active in 2018. The 27-page application contains detailed exhibits (see Figure 10) and specific information describing the planned improvements.

The application justifies the project need in answering a ‘Reduced Traffic Congestion and Delay’ question in part as follows:

“Although the intersection LOS calculations only show a slight improvement with the implementation of this project, there is a significant improvement in terms of delay that motorists will experience due to the proposed removal of the crosswalk across West Coast Highway. Given the high ADT on West Coast Highway, this critical east-west vehicular movement is often times delayed by pedestrians and bicyclists crossing the highway. This intersection, especially in the opposing north-south direction experiences a high volume of pedestrians and bicyclist due to the proximity of Balboa Peninsula. The construction of a pedestrian/bicycle bridge will allow the elimination of the at-grade crosswalk, which will in turn add a significant amount of traffic signal time to the critical east-west vehicular movement, ultimately reducing delay”

The City's explanation, supported by technical analysis and engineered exhibits clearly shows the main benefit of the Project is to WCH east/west traffic flow through the removal of the north/south crosswalk.

- **December 2018** – The City enters into Cooperative Agreement No. C-8-1898 between Orange County Transportation Authority and City of Newport Beach for The Bicycle Corridor Improvement Program Project Newport Beach Bicycle and Pedestrian Bridge Project.

- **June 2019** – During this period there were numerous communications with Caltrans to determine who prepares the environmental documents. It is clear that Caltrans knew the project was phased. For example:

“For the phase I bridge project over Superior, how much of the work is taking place in the Caltrans right of way, or is our r/w involved at all? I’m still trying to determine whether this would be appropriately handled as an oversight project (on the State highway system) or as a Local Assistance project (off the State highways). If the former, then Caltrans would be both the NEPA and CEQA lead, but if the latter, then the City would do its own CEQA, and Caltrans would approve only the NEPA doc.”²⁵

- **October 23, 2019** - October 23, 2019 The City submitted an application for OCTA's Comprehensive Transportation Funding Program – Intersection Capacity Enhancement Category (Planning Phase). The application is titled “City of Newport Beach: West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2).” The Phase 2 project is clearly active in 2019. The 27-page application contains detailed exhibits and specific information describing the planned improvements.
- **November 19, 2019** - At the November 19, 2020 City Council hearing the Phase 1 of the project was presented for Council consideration and approval in concept. Staff recommended approval of a Mitigated Negative Declaration (MND). This was defined as a City Public Works Department initiated project. The City was identified as the Lead Agency for implementation of CEQA. At that hearing the Phase 1 project was presented to the public as the whole of the project, no mention of a Phase 2 project component. The 2019 project contained several controversial components including the grading/removal of a lookout point, creation of a dog park, expansion of the existing parking lot and construction of a pedestrian and bicycle bridge over Superior Avenue. The Staff report stated “The primary goals of this project are to improve safety and access to Sunset Ridge Park and to increase parking availability.”

The project did not comply with the City Zoning Code or the City LCP Implementation Plan. Variances were required for the height of each of the 3 bridge alternative designs, bridge abutments and retaining walls to create the expansion of the parking lot. All of the potentially significant environmental impacts such as, the visual impact from the bridge or the visual impact to the change in land from site grading subject to CEQA were deemed to be less than significant as with the case for visual impacts, or potentially significant but with adoption of mitigation measures less than significant with the case of wetland impacts.

The City Council took action at the November 19, 2019 approving in concept a modified version of the 2019 project presented to them. They voted to retain the lookout point, expand the Sunset View Park, eliminate the dog park and proceed with the detailed design of one of 3 bridge designs, the demolition of the existing metered surface parking lot construction of a new expanded metered surface parking lot.

The City Council approved the draft MND for the project, adopted Findings in support of the Coastal Development Permit (CDP) and adopted Resolutions for the variances and CEQA document. In approving 2019 CDP the City found the 2019 project was consistent LCP Land Use Plan and all development standards contained in the LCP-Implementation Plan.

The documents presented to the Council acknowledged a portion of the project area was outside the City LCP permit authority and subject to Coastal Commission approval of a Coastal Development Permit Amendment (CDP 5-11-302). None of the documents or discussion at the Council hearing mentioned Phase 2 improvements to Pacific Coast Highway at Superior Avenue.

As part of this agenda item the City Council approved, a Professional Service Agreement (PSA) with Dokken Engineering for professional engineering services for the Superior Avenue Bridge project. The

²⁵ June 7, 2019 email from Charles Baker (Caltrans) to Andy Tran (City)

PSA scope of work involved preparation of construction documents for a new pedestrian bridge across Superior Avenue and a new larger parking lot. These PSAs were a part of the 2020-21 Capital Improvement Program.

- **January 14, 2020** - With City Council adoption of Resolution 2020-4 on January 14, 2020, staff submitted a funding application (they had previously prepared) to OCTA under the CTFP for Phase 2, the WCH Bridge project. The funding application was approved.
- **August 25, 2020** - On August 25, 2020 the City Council approved Amendments to Professional Services Agreements with both Chambers Group, Inc. and Dokken Engineering and changes to the conceptual design of the Superior Avenue pedestrian bridge structure. These Amendments “are needed to complete the environmental review and design services, respectively, for the WCH Bridge project. Staff is also recommending a revision to the approved conceptual design related to the Superior Avenue pedestrian bridge structure.” Staff explained the relationship between these roadway improvements as follows:

“The proposed improvements for both projects involve improving the intersection of Superior Avenue and West Coast Highway. Although these two projects are separate, they are immediately adjacent to one another. The Superior Avenue Bridge project involves constructing a new pedestrian bridge across Superior Avenue and a new larger parking lot. The new pedestrian bridge will improve access to Sunset Ridge Park and the new larger parking lot will provide additional parking for visitors to Sunset Ridge Park and the beach. The WCH Bridge project involves widening West Coast Highway to increase vehicular capacity and constructing a pedestrian bridge across West Coast Highway. With the completion of both projects, sidewalks and two crosswalks at this intersection can be eliminated as pedestrians will be able to use the two new bridges and ramps. Eliminating two crosswalks and moving the pedestrians from the street level to the bridges and ramps will significantly improve pedestrian access and safety. This will also greatly improve traffic signal operation and vehicular circulation by allowing more traffic signal green time for vehicles traveling through the intersection.” The design of the Superior Avenue Bridge project will account for the proposed improvements of the WCH Bridge project. Because of the proximity of these two projects, they will need to be closely coordinated

Staff explained funding for this project as follows:

“The adopted FY 2020-21 Capital Improvement Program budget includes sufficient funding for the environmental and design services. The services will be expensed to the FFP Parks/Community Centers Account No. 56201-980000-15T09 and Measure M Competitive Account No. 1230050-980000-15T09 in the Superior Avenue and West Coast Highway Intersection Improvements project (15T09).”

As of August 25, 2020, the City had secured federal grants for the construction of Phase 1 and local Measure M2 grants for the design of Phase 2. City staff is continuing to seek grant funding opportunities for the construction of Phase 2. Final design plans for Phase 1 (the proposed Project) have been prepared and are awaiting approval. The City has contracted for planning, design and CEQA services for Phase 2.

- **December 9, 2020** – On December 9, 2020 the City Civil Engineer submits a Section 4(f) De Minimis Memorandum to Caltrans District 12 - Division of Environmental Planning.
No information about this process has been provided to the public.

Section 4(f) applies whenever a federal (USDOT) action involves the use of a publicly-owned park, recreation area, wildlife or waterfowl refuge, or land from a historic site. Such land may be used for Federal-aid highway projects only if there is no feasible and prudent alternative and all possible planning has been

taken to avoid the use of a 4(f) property or to minimize harm to any 4(f) property affected by the project. Each project proposal must include a 4(f) avoidance alternative.

- **December 10, 2020** - On December 10, 2020 the City Zoning Administrator approved the Superior Avenue Pedestrian and Bicycle Bridge, Parking Lot and Recreation Area Project (PA2019-014), Coastal Development Permit No. CD2020-143, Mitigated Negative Declaration No. ND2019-002 and Resolution 2020-082. (the Phase 1 project)

The Zoning Administrator's Findings concluded the proposed Project conformed to all City land use and development regulations, including any applicable discretionary actions; that the proposed Project conforms to all applicable sections of the certified Local Coastal Program and therefore entitles the City to appeal to the Coastal Commission for a coastal development permit. (LCP Section 21.52.015.1)

- **December 28, 2020** - On December 28, 2020, a Public Records Request was filed by the Appellant with the City for information on this project. The requested information was received on 1-29-21.
- **January 4, 2021** - On January 4, 2021 the Zoning Administrator's approval(s) was appealed to the Planning Commission.²⁶
- **March 4, 2021** – On March 4, 2021 the Planning Commission approved per Staff recommendations the Superior Avenue Pedestrian and Bicycle Bridge, Parking Lot and Recreation Area Project (PA2019-014)
 - Coastal Development Permit No. CD2020-143
 - Mitigated Negative Declaration Addendum No. ND2019-002
- **April 5, 2021** – On April 5, 2021 the Appellants filed an appeal of the City of Newport Beach approval of City of Newport Beach Coastal Development Permit No. CD2020-143 & Mitigated Negative Declaration Addendum No. ND2019-002 with the California Coastal Commission.

- END –

ATTACHMENTS

1. Signed Appellant Certification forms
2. West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2) Funding Application

²⁶ These comments supplement the appeal application and prior comments submitted to the Zoning Administrator on December 9, 2020. (Note: No responses to the December 9th comment letter have been received from the Zoning Administrator or City Staff. However, staff has reached out and verbally explained the way the bridge height was calculated and the project's anticipated effect on signal timing on West Coast Highway.)

Appellant Certification Forms

List of Appellants - Appeal (CD2020-143)

Primary point of contact for Appellants: David Tanner, President Environmental & Regulatory Specialists, Inc. 2232 62 nd Street Newport Beach, CA 92663 dave@earsi.com	Jackie Cota Newport Beach, CA jackiescota@gmail.com
Mary G. Howard Newport Beach mghoward08@gmail.com	Sandra Aryes Newport Beach, CA 92663 ssayres@mac.com
Charles Klobe Newport Beach, CA cklobe@me.com	Peggy Palmer Newport Beach, CA pvpalmer@icloud.com
Patrick Gormley Newport Beach, CA pfg1941@gmail.com	Janice Gormley Newport Beach, CA janicegormley@gmail.com
Michael Palmer Newport Beach, CA mcpalmer@me.com	Barbara Lyon Newport Beach, CA val-lyon@sbcglobal.net
Edward Lyon Newport Beach, CA val-lyon@sbcglobal.net	

Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name David Tanner

Signature David J. Tanner

Date of Signature 4-5-21

5. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

5 If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

6 If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary

Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name BARBARA LYON

Barbara Lyon
Signature

Date of Signature 3-26-21

5. Representative authorizations

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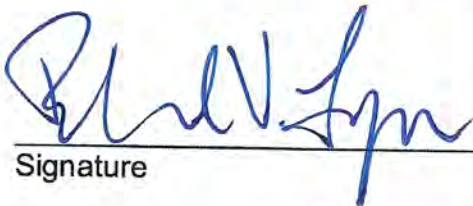
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Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name EDWARD LYON


Signature

Date of Signature 3.26.2021

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Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Jackie Cota

Jackie Cota
Signature

Date of Signature March 30, 21

5. Representative authorizations

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Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name _____

Signature

Date of Signature _____

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Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Patrick Gormley

Patrick Gormley
Signature

Date of Signature 3/25/2021

5. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

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Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Janice Somley

Signature Janice Somley

Date of Signature 3-26-2021

5. Representative authorizations

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Appeal of local CDP decision

Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Reggie V. Palmer


Signature

Date of Signature 3.26.21

5. Representative authorizations

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Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Michael Palmer


Signature

Date of Signature 3.26.21

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Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name SANDRA SPERRY AYRES


Signature

Date of Signature 03/25/2021

5. Representative authorizations

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Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name

MARY G. HOWARD

Signature

Mary G. Howard

Date of Signature

3.26.20

5. Representative authorizations

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**West Coast Highway and Superior Avenue/Balboa
Boulevard Intersection Improvements (Phase 2)
Funding Application**



CITY OF NEWPORT BEACH

100 Civic Center Drive
Newport Beach, California 92660
949 644-3311 | 949 644-3308 FAX
newportbeachca.gov/publicworks

October 17, 2018

Mr. Joe Alcock
Senior Transportation Funding Analyst
Orange County Transportation Authority
600 S. Main Street
Orange, CA 92868

Subject: OCTA Comprehensive Transportation Funding Program – Intersection
Capacity Enhancement Category (Planning Phase)
***City of Newport Beach: West Coast Highway and Superior
Avenue/Balboa Boulevard Intersection Improvements (Phase 2)***

Dear Mr. Alcock:

I am pleased to submit the City of Newport Beach's grant application for the proposed project: *West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2)*. As requested, three unbound copies of the application and supporting documentation are enclosed, and the required materials were also uploaded to the OCFundtracker online system.

The application contains a draft Resolution. The City will take the Resolution to the City Council on November 27, 2018 and we will forward the signed Resolution to OCTA no later than January 31, 2019. This submission is one of two applications that the City is submitting during this cycle. The other application is under the Arterial Capacity Enhancement category for a separate project at West Coast Highway and Old Newport Boulevard.

Thank you for your consideration of our proposed project. If you have any questions about this application or would like additional information, please do not hesitate to call me at (949) 644-3315.

Sincerely,

A handwritten signature in black ink, appearing to read "Andy Tran".

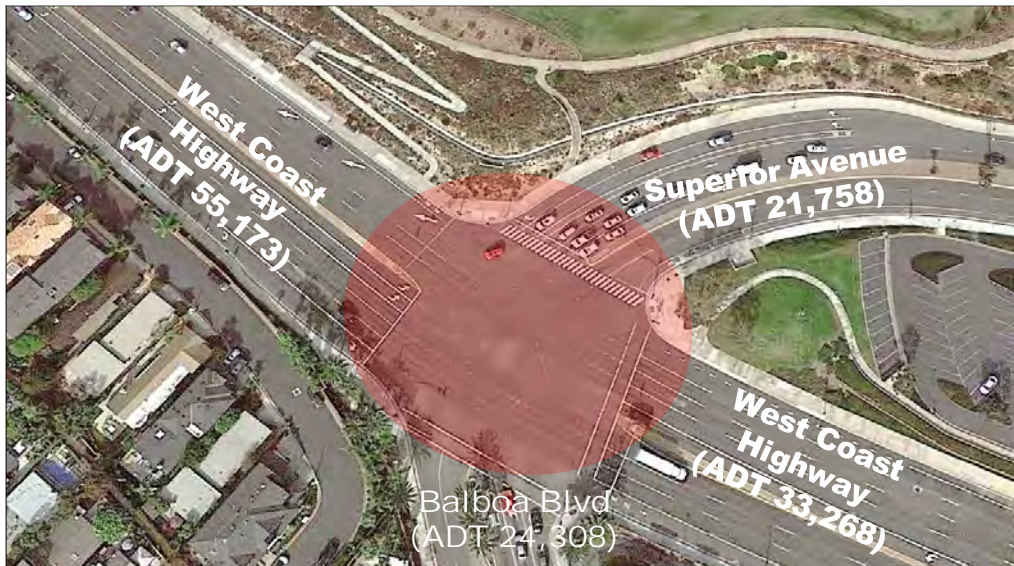
Andy Tran, P.E.
Senior Civil Engineer



CITY OF NEWPORT BEACH

West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2)

OCTA Comprehensive Transportation Funding Program (CTFP)
Regional Capacity Program – Intersection Capacity Enhancement



PREPARED FOR:

Orange County Transportation Authority
600 S. Main Street
Orange, CA 92868

PREPARED BY:

City of Newport Beach
Andy Tran, PE, Senior Civil Engineer
100 Civic Center Drive
Newport Beach, CA 92660
Telephone: (949) 644-3315

October 18, 2018

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Exhibit 7-2 Intersection Capacity Enhancement (ICE) CTFP Application Checklist Guide

Planning – Environmental & Engineering

- CTFP Online Application – submitted through OCFundtracker
- Project Description, Scope of Work and Project Limits
- Cost Estimate for Complete Project - ALL PHASES
- General Application Sample Resolution
- Peak Hour Turning Movement Counts, LOS Calculations, and ADT for each leg of the intersection
- Aerial Photo w/ Proposed Improvements Shown

Right-of-Way

- CTFP Online Application – submitted through OCFundtracker
- Project Description Detail (include plat maps and legal descriptions for proposed acquisitions)
- Detailed right-of-way Acquisition/Disposal Plan using the OCTA provided right-of-way acquisition/disposal plan form available for download at <https://ocfundtracker.octa.net>.
- Cost Estimate for Complete Project - ALL PHASES
 - Estimated right-of-way Cost by Parcel (Land, Improvements Taken, Severance, Goodwill, Incidental Expenses) *
- General Application Sample Resolution
- Peak Hour Turning Movement Counts, LOS Calculations, and ADT for each leg of the intersection
- CEQA Compliance Form (CE, Negative Declaration, EIR)
- Aerial Strip Map w/ Existing and Proposed Improvements Shown
 - Include right-of-way Improvements and Parcels to be Acquired
- Preliminary Construction Layout Plans*

Construction

- CTFP Online Application – submitted through OCFundtracker
- Project Construction Specifications
- Cost Estimate for Complete Project - ALL PHASES
- General Application Sample Resolution
- Peak Hour Turning Movement Counts, LOS Calculations, and ADT for each leg of the intersection
- CEQA Compliance Form (CE, Negative Declaration, EIR)
- Project Development Documents - Project Report or Materials Report *
- Approved Project Construction Plans*

NOTE: To qualify for the 10 percent local match discount for measurable improvement of PCI, please include documentation from the last two PMP biennial Measure M Eligibility submittals that provide average PCI for Overall System.

****Items are due after first application review. OCTA staff will contact you regarding those projects that will require this additional information.***



Orange County Transportation Authority

[VIEW PREVIOUS VERSIONS OF THIS PROJECT](#)[PROJECT SUMMARY](#) (XLS)[UPLOAD PROJECT DOCUMENTS](#)

APPLICATION NUMBER:		CTFP TOTAL ALLOCATIONS: \$780,000.00	TOTAL PROJECT COST: \$6,700,000.00
PROJECT ID:	CP--3515	CTFP TOTAL PAYMENTS: \$0.00	MATCH RATE: 0.00
VERSION:	1	STATUS: Planned	BOARD APPROVAL DATE:
LAST MODIFIED BY: Patrick Arciniega (10/16/2018) APPROVED BY: N/A HISTORY			

PROJECT INFORMATION**IMPROVEMENT TYPE**

ICE - Intersection Capacity Enhancement ▼

IMPLEMENTING AGENCY

Newport Beach, City of ▼

CONG DISTRICT

48

SUP DISTRICT

2

SENATE DISTRICT

37

ASSEMBLY DISTRICT

74

PROJECT MANAGER

Andy Tran, P.E.

PHONE (10-DIGIT)

9496443315

EMAIL

atran@newportbeachca.gov

PROJECT TITLE

West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2)

PROJECT DESCRIPTION - GUIDELINES

Project Overview. In accordance with the Comprehensive Transportation Funding Programs (CTFP) Guidelines, the City of Newport Beach (City) requests funding for the planning phase which includes planning /permitting, right-of-way engineering, environmental clearance, and

SYSTEM

State Hwy ▼

ROUTE

1 ▼

INTERCHANGE

NO ▼

FROM

West Coast Hwy

TO

Superior Avenue

[MAP](#)**LANES INFORMATION**

		Left Turn	# of Lanes Through	Right Turn
Existing	NorthBound	1.5	1	0.5
	SouthBound	1.5	1.5	2
With Application	NorthBound	1.5	1	0.5
	SouthBound	1.5	1.5	1 (free)
Existing	EastBound	2	3	1
	WestBound	1	4	0
With Application	EastBound	2	4	0
	WestBound	1	4	0

GENERAL QUESTIONS**CTFP QUESTIONS**

Is this application on your current approved measure M2 CIP? NO ▼

Has your agency previously received CTFP funding for this Application? NO ▼

If Yes, When? If No, Type N/A N/A

Project ID? N/A

MATCH RATE DISCOUNT

Has your agency adopted & maintained the Traffic Signal Synchronization Master Plan? YES ▼

Is your agency using fairshare funding as a match for this project? NO ▼

Does your agency have a PCI over 75 or has your agency had a measurable improvement of PCI from previous reporting period to current reporting period? YES ▼

PROGRAMMING INFORMATION (\$0)[\[HISTORICAL REVENUES\]](#) [\[GRAPH REVENUES\]](#)

Please enter all funding required for the total project for all years. Note: This 2019 Call for Projects will allocate M2 funds for FY19/20, FY20/21, FY21/22 only.

**** Minimum match for local funds is 25% ******** Actual Local Agency Match Rate is 35% ****

FISCAL YEAR	FUND TYPE (PROGRAMMED REVENUE SOURCE)	ENG	ROW	CON	TOTAL	
19/20 ▼	General Fund ▼	\$420,000.00	\$0.00	\$0.00	\$420,000	X
19/20 ▼	Intersection Capacity Enhancements (ICE) ▼	\$780,000.00	\$0.00	\$0.00	\$780,000	X
20/21 ▼	Intersection Capacity Enhancements (ICE) - Future Call ▼	\$0.00	\$375,000.00	\$0.00	\$375,000	X
20/21 ▼	General Fund ▼	\$0.00	\$125,000.00	\$0.00	\$125,000	X
22/23 ▼	General Fund ▼	\$0.00	\$0.00	\$1,250,000.00	\$1,250,000	X
22/23 ▼	Intersection Capacity Enhancements (ICE) - Future Call ▼	\$0.00	\$0.00	\$3,750,000.00	\$3,750,000	X
▼	▼				\$0	
▼	▼				\$0	
▼	▼				\$0	
▼	▼				\$0	
▼	▼				\$0	

General Fund	\$420,000	\$125,000	\$1,250,000	\$1,795,000
Intersection Capacity Enhancements (ICE)	\$780,000	\$0	\$0	\$780,000
Intersection Capacity Enhancements (ICE) - Future Call	\$0	\$375,000	\$3,750,000	\$4,125,000
GRAND TOTAL	\$1,200,000	\$500,000	\$5,000,000	\$6,700,000

Update Subtotals

SCHEDULE INFORMATION

	SCHEDULED START		SCHEDULED COMPLETION		STATUS	CONTRACT AWARD/NOTICE TO PROCEED DATE	ACTUAL COMPLETION	FINAL REPORT SUBMITTAL	EXPENDITURE EXTENSION DEADLINE
	MONTH	YEAR	MONTH	YEAR					
PLAN	NOV ▼	2019 ▼	JUL ▼	2022 ▼	Planned ▼				
ENG	NOV ▼	2019 ▼	JUL ▼	2022 ▼	Planned ▼				
ROW	NOV ▼	2020 ▼	JAN ▼	2022 ▼	Planned ▼				
CON	SEP ▼	2022 ▼	DEC ▼	2023 ▼	Planned ▼				

TYPE OF REQUEST

☒ NONE
 ☐ DELAY
 ☐ ADVANCE
 ☐ TRANSFER
 ☐ CANCELLATION
 ☐ SCOPE CHANGE
 ☐ EXCESS RIGHT-OF-WAY
 ☐ FUNDS EXTENSION

PROJECT ADJUSTMENTS

LINK	BOARD APPROVAL DATE	PHASE	ACTION	FY	AMOUNT	COMMENT
PDF						
PDF						
PDF						
[ADD NEW ROW]						

JUSTIFICATION - LAST UPDATED: 10/8/2018 -

Call for projects

ENTER SCORING DATA

MARK ON MAP

Please Mark on Map before submitting. If marked on map, click Save. If there is a pop-up window, please click No

Save for Later

Save and Submit to OCTA

PRINT



OCTA Orange County Transportation Authority

PROJECT RANKING

AGENCY: Newport Beach, City of

TITLE: West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvements (Phase 2)

ICE - Intersection

POINT(S)

Facility Usage

ADT (Sum of Avg ADT for 4 legs based on OCTA Traffic Flow Map)

67254

15

Current Project Readiness

Environmental Approvals ☐

Preliminary Design (35%) ☐

Right of Way (All offers issued) ☐

Final Design (PS&E) ☐

Right of Way (All easement and titles) ☐

0

Economic Effectiveness

Coordination with Contiguous Project

NO ▼

0

Cost Benefit

6700000 (Total Project Cost) / 67254 (ADT) = 100

3

Funding Over-Match

35% (City Match) - 25% (Required) = 10%

2

Facility Importance

Transportation Significance

Major ▼

8

Protected/Permissive ☒

Safety Improvements ☒

Sustainability ☒

Water Conservation Elements ☐

Channels traffic ☐

Lowers density ☐

Bike Lanes ☒

Bus Turnouts ☒

Free Right ☒

Ped. Facilities (new) ☒

Grade separations ☐

20

Benefit

Existing LOS - Starting Point - (Peak Hour)

0.82

1

LOS - After Project - (Peak Hour)

0.74

LOS Improvement

0.08

2

TOTAL =

2

SAVE RANKING

CLOSE WINDOW

PRINT

TOTAL POINT(S):52

CONTACT [OCTA](#)

1.28s

EMAIL OCFUNDTRACKERHELP@ECOINTERACTIVE.COM

PROJECT DESCRIPTION DETAIL

Project Overview. In accordance with the Comprehensive Transportation Funding Programs (CTFP) Guidelines, the City of Newport Beach (City) requests funding for the planning phase which includes planning /permitting, right-of-way engineering, environmental clearance, and engineering/design activities. The City proposes to improve the intersection of West Coast Highway and Superior Avenue/Balboa Boulevard. Refer to the Project Location Map and the Layout Plan on the following pages.

The estimated cost for the planning phase is \$1,200,000. The City requests \$780,000 in Measure M2 competitive grant funds (65%) from Orange County Transportation Authority (OCTA) and will contribute a minimum of \$420,000 (35%) of local funds to satisfy the minimum matching requirement (50% minus the anticipated 25% match reduction plus a 10% overmatch), as outlined in the application form.

Existing Conditions at the Intersection. West Coast Highway is the primary east-west highway along the Pacific Ocean and connects the City of Huntington Beach to the west and the City of Laguna Beach to the east. This segment of the highway is currently within California Department of Transportation (Caltrans) jurisdiction and is classified as a “Major Arterial” on the OCTA Master Plan of Arterial Highways (MPAH) map and is also identified as a “Major Road” in the City’s General Plan - Master Plan of Streets and Highways. The north leg of the intersection leads to the City of Costa Mesa via Superior Avenue. The south leg of the intersection leads to the Balboa Peninsula via Balboa Boulevard. Both Superior Avenue and Balboa Boulevard are classified as “Primary Arterial” on the OCTA MPAH map. Similarly, both these streets are classified as “Primary Road” on the City’s General Plan - Master Plan of Streets and Highways. The sum of the Average Daily Traffic (ADT) for this intersection is 67,254. 24-Hour traffic counts were collected on Wednesday September 26, 2018. The existing lane configuration is described below:

Eastbound West Coast Highway: Two left turn lanes, three through lanes, one right turn lane and a bike lane.

Westbound West Coast Highway: One left turn lane, four through lanes including one shared de-facto right turn lane, and a bike lane. The four through lanes reduces to three lanes immediately past the intersection.

Northbound Balboa Boulevard: One left turn lane, one shared left turn and through lane, and one shared through and de-facto right turn lane.

Southbound Superior Avenue: One left turn lane, one shared left turn and through lane, one through lane, two right turn lanes and a bike lane.

Project Need.

1) Reduce Traffic Congestion and Delay. The project will improve the operation of the intersection by adding capacity, reducing vehicle queuing and alleviating congestion. This intersection is an important gateway to adjacent cities and multiple high-impact destinations. The south leg of the

intersection leads to the Balboa Peninsula, one of the most popular and heavily-trafficked tourist and recreation destinations in Southern California. The coastal population swells by an estimated 100,000 per day during peak tourist season, more than doubling the population and adding to the already congested streets, as vehicle, pedestrian, and bicycle traffic head south toward the Peninsula's public beaches and the hundreds of entertainment and retail venues. On the northwest side of the intersection is the recently constructed Sunset Ridge Park, which is home to organized youth soccer and baseball leagues. More than 16,000 persons use the park annually for youth league sports, and even more for the park's playground and walking and biking trails.

Although the intersection LOS calculations only show a slight improvement with the implementation of this project, there is a significant improvement in terms of delay that motorists will experience due to the proposed removal of the crosswalk across West Coast Highway. Given the high ADT on West Coast Highway, this critical east-west vehicular movement is often times delayed by pedestrians and bicyclists crossing the highway. This intersection, especially in the opposing north-south direction experiences a high volume of pedestrians and bicyclist due to the proximity of Balboa Peninsula. The construction of a pedestrian/bicycle bridge will allow the elimination of the at-grade crosswalk, which will in turn add a significant amount of traffic signal time to the critical east-west vehicular movement, ultimately reducing delay. The LOS calculation methodology does not take into account the delay time that the motorist experiences. The ADT presented in this application was recently collected on Wednesday September 26, 2018. The ADT would be much higher during the peak tourist season (summer) with the increased population.

2) Improve Pedestrian and Bicycle Safety and Access. This project will improve safety at this intersection by separating motorists and pedestrians/bicyclists and reducing vehicle/pedestrian/bike conflicts. Many pedestrians and bicyclists travel south on Superior Avenue towards public beaches and entertainment and retail venues. The slope of Superior Avenue is approximately 10% downhill towards West Coast Highway, which is extremely steep for a Primary Arterial. Given the steep slope, bicyclists often times travel at high and unsafe speeds down Superior Avenue towards a very busy Major Arterial. The steep slope, combined with the curvature of Superior Avenue is a less than ideal condition for pedestrians and bicyclists. The proposed bridge will allow pedestrians and bicyclist to safely cross West Coast Highway and avoid opposing vehicles traveling at high speeds.

The proposed bridge will also provide more efficient access for pedestrians and bicyclist at this intersection. The two bridges (across Superior Avenue and across West Coast Highway) will allow safe and continuous access across both sides of the intersection.

Description of the Intersection Improvements. The proposed improvements at this location will be completed in two separate phases. The following is a description of each phase:

Phase 1 involves the construction of the Superior Avenue pedestrian/bicycle bridge and a parking lot. This phase also involves earthwork, grading, retaining walls, concrete flat work, traffic signal modification, signing and striping. The design of this phase is currently underway. **Phase 1 is not part of this CTFP funding application.** However, planning and design of Phase 1 will accommodate the proposed improvements associated with Phase 2. The City was successful in securing federal grants to fund a portion of construction for Phase 1. This federal grant is part of the 2016 Bicycle Corridor Improvement Program (BCIP) call for projects. Depending on the outcome of this grant application, the City may request to combine the two phases.

Phase 2 is the subject of this CTFP ICE grant application. This phase involves widening West Coast Highway to accommodate one additional eastbound through lane and converting the two southbound right turn lanes into a single free right turn lane. In addition, this phase involves constructing a new pedestrian/bicycle bridge across West Coast Highway. A pedestrian ramp at the south side of West Coast Highway would also need to be constructed to allow pedestrians to access the sidewalk from the top of the bridge. All existing utilities that are impacted by the proposed roadway widening will need to be adjusted or relocated. This phase also involves the reconstruction of the raised median on West Coast Highway, concrete flatwork, traffic signal modification, signing, and striping. With the completion of the two new pedestrian/bicycle bridges, the two crosswalks that parallel the bridges would be eliminated, which will dramatically decrease vehicular delay as discussed above.

Proposed Planning Phase. This application requests funding for Phase 2 planning activities for the widening of West Coast Highway and the construction of the pedestrian/bicycle bridge over West Coast Highway. Planning activities include the following:

- 1) Planning/Permitting – Conceptual design, coordination with other agencies such as the California Coastal Commission (CCC) and Caltrans, procure Coastal Development Permit from CCC, process design and procure permits from Caltrans, and conduct public outreach with the community.
- 2) Right-of-Way Engineering – Identify necessary right-of-way from adjacent property owners (Newport Banning Ranch and Hoag Hospital).
- 3) Environmental Clearance – Prepare appropriate environmental documentation, circulate documentation for public review and comment, identify and complete all mitigation measures, and file environmental documents with the County of Orange.
- 4) Engineering/Design – Prepare final construction plans, specifications and construction cost estimates, coordinate utility impacts with other agencies, advertise and award construction contract, and prepare record drawings upon completion of construction.

Future Implementation Phase. Upon substantial completion of the planning phase, the City will proceed with the implementation phase. At that time, the City will seek additional grant funding to complete the implementation phase which includes the following:

- 1) Right-of-Way Acquisition – Prepare appraisals, negotiate with property owners, purchase necessary right-of-way to accommodate widening West Coast Highway.
- 2) Construction – Procure a contractor, construction management, and continue with public outreach with the community.



PROJECT LOCATION MAP



LEGEND

- PROPOSED SUPERIOR AVENUE PEDESTRIAN/BIKE BRIDGE AND PARKING LOT (PHASE 1 – NOT PART OF FUNDING APPLICATION)
- PROPOSED WEST COAST HIGHWAY WIDENING AND WEST COAST HIGHWAY PEDESTRIAN/BIKE BRIDGE (PHASE 2)

WEST COAST HWY AND SUPERIOR AVE/BALBOA BLVD
INTERSECTION IMPROVEMENTS (PHASE 2)

CITY OF NEWPORT BEACH
PUBLIC WORKS DEPARTMENT

DATE: 10/10/2018
SHEET 1 OF 1

**City of Newport Beach: West Coast Highway and Superior Avenue/Balboa Boulevard
Intersection Improvements (Phase 2)**



COST ESTIMATE (OCTOBER 2018)

I. PLANNING

Item	Description	Unit	Unit Cost		
				Quantity	Cost
1	Engineering	LS	\$600,000	1	\$600,000
2	Environmental Clearance	LS	\$450,000	1	\$450,000
3	Permitting	LS	\$150,000	1	\$150,000
TOTAL PLANNING					\$1,200,000

II. RIGHT-OF-WAY

Item	Description	Unit	Unit Cost		
				Quantity	Cost
1	Estimated 15,000 sq. ft. to be acquired from Newport Banning Ranch to facilitate road widening on West Coast Highway (WCH) (a narrow strip of land)	SF	\$33.33	15,000	\$500,000
TOTAL R/W ACQUISITION					\$500,000

III. CONSTRUCTION

Item	Description	Unit	Unit Cost		
				Quantity	Cost
1	Pedestrian & Bicycle Bridge (Over WCH), 1 Ramp (on the southside of WCH), and 1 Abutment (linking to the Phase 1 pedestrian/bicycle bridge over Superior Avenue)	LS	\$2,500,000	1	\$2,500,000
2	Road Widening on WCH	LS	\$2,000,000	1	\$2,000,000
3	Contingency (Approx. 10% of total construction)	LS	\$500,000	1	\$500,000
TOTAL CONSTRUCTION					\$5,000,000

IV. PROJECT TOTAL

PROJECT TOTAL				\$6,700,000
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NOTE: The City will take the resolution to the City Council on November 27, 2018.

RESOLUTION NO. 2018-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING THE SUBMITTAL OF A FUNDING APPLICATION FOR AN INTERSECTION CAPACITY ENHANCEMENT PROJECT TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMPREHENSIVE TRANSPORTATION FUNDING PROGRAM

WHEREAS, the City of Newport Beach desires to implement the transportation improvements listed below; and

WHEREAS, the City of Newport Beach has been declared by the Orange County Transportation Authority to meet the eligibility requirements to receive M2 "Fair Share" funds; and

WHEREAS, the City's Circulation Element is consistent with the County of Orange Master Plan of Arterial Highways; and

WHEREAS, the City of Newport Beach will provide 35 percent in matching funds for the planning phase for the West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvement project as required by the Orange County Comprehensive Transportation Funding Programs Guidelines; and

WHEREAS, the Orange County Transportation Authority intends to allocate funds for transportation improvement projects within the incorporated cities and the County; and

WHEREAS, the City of Newport Beach will not use M2 funds to supplant Developer Fees or other commitments; and

WHEREAS, the City must include all projects funded by Net Revenues in the seven-year Capital Improvement Program as part of the Measure M2 Ordinance eligibility requirement; and

WHEREAS, the City authorizes a formal amendment to the seven-year Capital Improvement Program to add projects approved for funding upon approval from the Orange County Transportation Authority Board of Directors

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council does hereby requests the Orange County Transportation Authority allocate funds in the amounts specified in the City's application from the Comprehensive Transportation Programs. Said funds shall be matched by funds from the City of Newport Beach as required and shall be used as supplemental funding to aid the City in the West Coast Highway and Superior Avenue/Balboa Boulevard Intersection Improvement project

Section 2: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 3: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this ____ day of _____, 20__.

Duffy Duffield
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

City: NEWPORT BEACH
N-S Direction: SUPERIOR AVE
E-W Direction: COAST HIGHWAY

File Name : h1809089
Site Code : 00005701
Start Date : 9/27/2018
Page No : 1

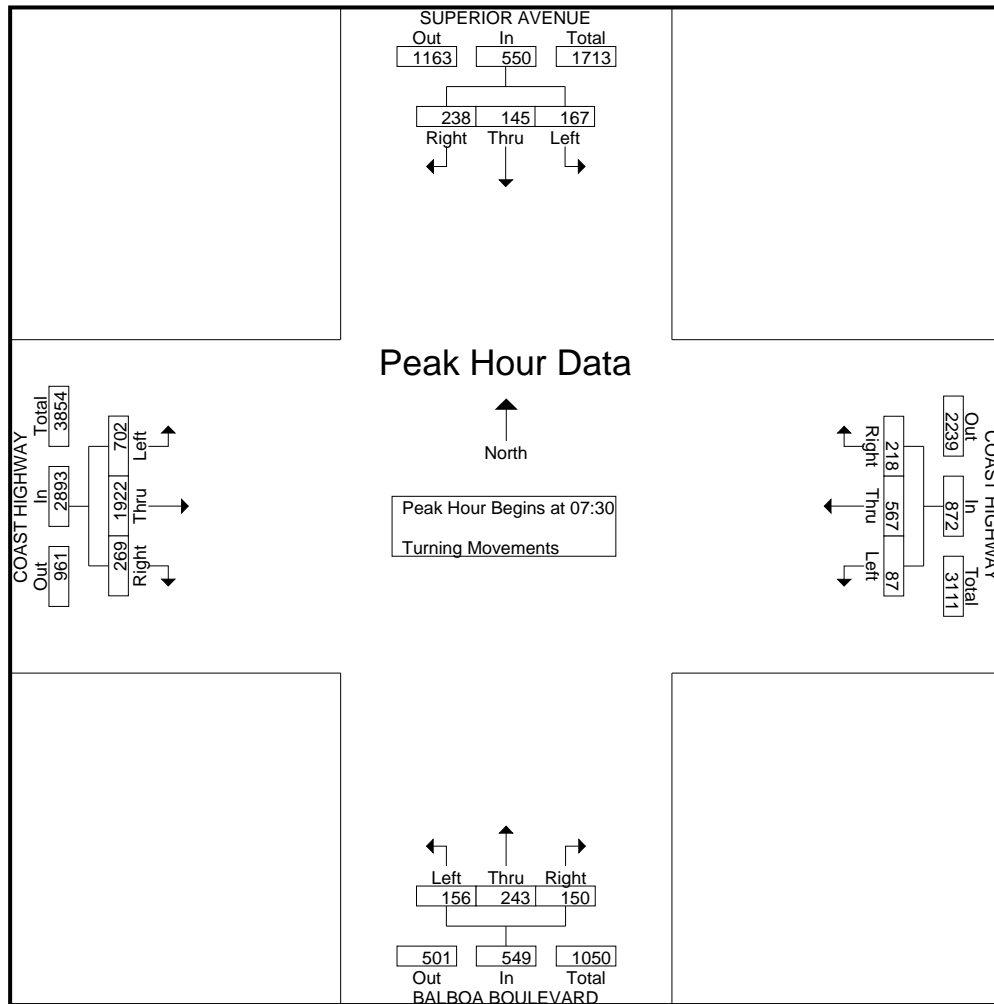
Groups Printed- Turning Movements

	SUPERIOR AVENUE Southbound			COAST HIGHWAY Westbound			BALBOA BOULEVARD Northbound			COAST HIGHWAY Eastbound			
Start Time	Right	Thru	Left	Right	Thru	Left	Right	Thru	Left	Right	Thru	Left	Int. Total
07:00	39	27	50	20	81	16	28	21	16	52	355	118	823
07:15	44	30	48	23	80	9	33	45	29	35	368	99	843
07:30	47	28	43	32	137	15	43	48	27	48	510	174	1152
07:45	69	36	43	84	143	12	42	70	39	96	501	199	1334
Total	199	121	184	159	441	52	146	184	111	231	1734	590	4152
08:00	64	50	51	59	146	32	28	66	50	65	437	140	1188
08:15	58	31	30	43	141	28	37	59	40	60	474	189	1190
08:30	60	22	45	44	123	10	31	62	40	52	400	170	1059
08:45	68	35	46	55	151	22	21	58	32	60	458	196	1202
Total	250	138	172	201	561	92	117	245	162	237	1769	695	4639
*** BREAK ***													
16:30	206	48	44	51	577	30	10	51	76	47	212	51	1403
16:45	182	55	51	40	510	27	26	36	60	61	238	61	1347
Total	388	103	95	91	1087	57	36	87	136	108	450	112	2750
17:00	194	64	52	42	525	41	10	42	73	42	180	69	1334
17:15	255	76	77	34	550	32	26	50	69	34	197	74	1474
17:30	181	65	53	38	562	40	20	45	50	62	222	50	1388
17:45	147	49	45	29	474	32	24	48	82	59	240	61	1290
Total	777	254	227	143	2111	145	80	185	274	197	839	254	5486
18:00	125	54	33	36	415	38	26	38	73	49	148	73	1108
18:15	142	57	37	41	477	48	22	31	71	54	198	52	1230
Grand Total	1881	727	748	671	5092	432	427	770	827	876	5138	1776	19365
Apprch %	56	21.7	22.3	10.8	82.2	7	21.1	38	40.9	11.2	66	22.8	
Total %	9.7	3.8	3.9	3.5	26.3	2.2	2.2	4	4.3	4.5	26.5	9.2	

City: NEWPORT BEACH
N-S Direction: SUPERIOR AVE
E-W Direction: COAST HIGHWAY

File Name : h1809089
Site Code : 00005701
Start Date : 9/27/2018
Page No : 2

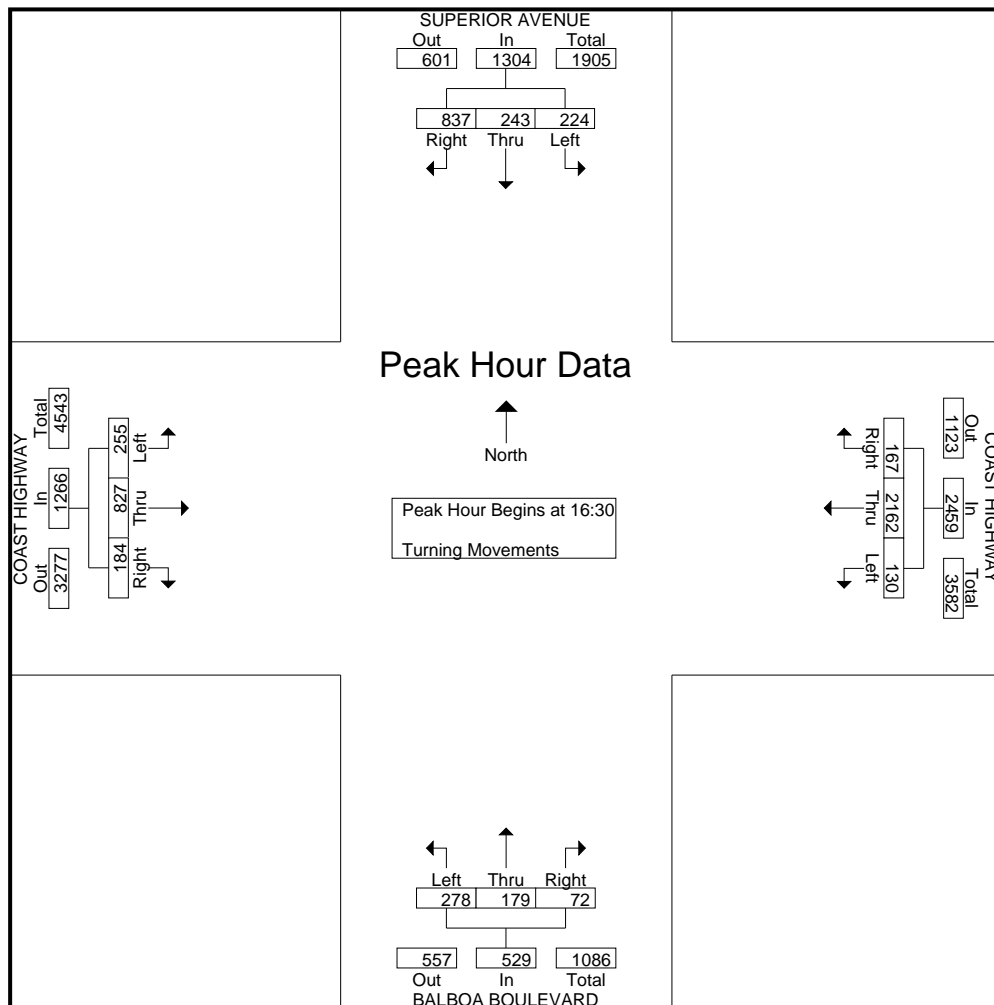
	SUPERIOR AVENUE Southbound				COAST HIGHWAY Westbound				BALBOA BOULEVARD Northbound				COAST HIGHWAY Eastbound				
Start Time	Right	Thru	Left	App. Total	Right	Thru	Left	App. Total	Right	Thru	Left	App. Total	Right	Thru	Left	App. Total	Int. Total
Peak Hour Analysis From 07:00 to 08:45 - Peak 1 of 1																	
Peak Hour for Entire Intersection Begins at 07:30																	
07:30	47	28	43	118	32	137	15	184	43	48	27	118	48	510	174	732	1152
07:45	69	36	43	148	84	143	12	239	42	70	39	151	96	501	199	796	1334
08:00	64	50	51	165	59	146	32	237	28	66	50	144	65	437	140	642	1188
08:15	58	31	30	119	43	141	28	212	37	59	40	136	60	474	189	723	1190
Total Volume	238	145	167	550	218	567	87	872	150	243	156	549	269	1922	702	2893	4864
% App. Total	43.3	26.4	30.4		25	65	10		27.3	44.3	28.4		9.3	66.4	24.3		
PHF	.862	.725	.819	.833	.649	.971	.680	.912	.872	.868	.780	.909	.701	.942	.882	.909	.912



City: NEWPORT BEACH
N-S Direction: SUPERIOR AVE
E-W Direction: COAST HIGHWAY

File Name : h1809089
Site Code : 00005701
Start Date : 9/27/2018
Page No : 3

	SUPERIOR AVENUE Southbound				COAST HIGHWAY Westbound				BALBOA BOULEVARD Northbound				COAST HIGHWAY Eastbound				
Start Time	Right	Thru	Left	App. Total	Right	Thru	Left	App. Total	Right	Thru	Left	App. Total	Right	Thru	Left	App. Total	Int. Total
Peak Hour Analysis From 16:30 to 18:15 - Peak 1 of 1																	
Peak Hour for Entire Intersection Begins at 16:30																	
16:30	206	48	44	298	51	577	30	658	10	51	76	137	47	212	51	310	1403
16:45	182	55	51	288	40	510	27	577	26	36	60	122	61	238	61	360	1347
17:00	194	64	52	310	42	525	41	608	10	42	73	125	42	180	69	291	1334
17:15	255	76	77	408	34	550	32	616	26	50	69	145	34	197	74	305	1474
Total Volume	837	243	224	1304	167	2162	130	2459	72	179	278	529	184	827	255	1266	5558
% App. Total	64.2	18.6	17.2		6.8	87.9	5.3		13.6	33.8	52.6		14.5	65.3	20.1		
PHF	.821	.799	.727	.799	.819	.937	.793	.934	.692	.877	.914	.912	.754	.869	.861	.879	.943



LOS Calculations - Justification for Using 2% Growth

The City assumed a 2% growth rate per year to estimate the future peak hour turning movement count. This project is scheduled to open in December 2023, a little over five years from today. The turning movement counts were recently collected on September 27, 2018. Based on the City's General Plan, the development of approximately 400 acres of land known as Newport Banning Ranch (NBR) is currently planned. As shown on the attached Project Location Map, NBR is located immediately adjacent to the proposed project location. The development of NBR will generate a significant amount of traffic at this intersection.

During the preparation of the General Plan, peak hour turning movement counts from 2009 were used. The projected build-out, which included the development of NBR, was anticipated to be in year 2025. The following AM/PM peak hour turning movement counts were used for both 2009 and 2025.

Turning Movement	2009 AM Peak Hour Volume	Projected 2025 AM Peak Hr Volume	2009 PM Peak Hour Volume	Projected 2025 PM Peak Hour Volume
Northbound Left	168	180	254	360
Northbound Through	266	500	208	180
Northbound Right	114	160	78	150
Southbound Left	170	80	228	240
Southbound Through	165	110	243	390
Southbound Right	247	560	710	790
Eastbound Left	709	640	258	340
Eastbound Through	1914	3020	986	1750
Eastbound Right	211	270	243	340
Westbound Left	95	130	226	280
Westbound Through	768	1000	1854	3070
Westbound Right	155	210	162	160
Total	4982	6860	5450	8050

Based on these turning movement counts, the growth rates for the AM and PM peak hours are calculated to be 2.0% and 2.5%, respectively. As of today, the development of NBR has not begun due to the lack of a Coastal Development Permit from the California Coastal Commission. Since the calculated growth rate for both the AM and PM peak hour turning movement counts are greater than 2%, the City assumed a 2% growth rate per year for the next five years.

INTERSECTION CAPACITY UTILIZATION CALCULATION WORKSHEET

INTERSECTION: Superior Drive (N/S) and West Coast Highway (E/W)

CONDITION: Existing Conditions with Forecasted Volumes at 2% Growth per Year (5 years)

COUNT DATE: Thur Sept 27, 2018

DATE: 16-Oct-18

Note: Split phasing on N-S approaches (OL) - Right-turn overlap phase

INTERSECTION CAPACITY UTILIZATION (ICU) ANALYSIS

MOVEMENT	LANES	SAT. CAPACITY (C)	VOLUME		V/C	
			AM	PM	AM	PM
NL	1.5	2550	171	308	0.067	0.121 *
NT	1	1700	268	199	0.158	0.117
NR	0.5	850	165	79	0.194 *	0.093
SL	1.5	2550	184	248	0.072 *	0.097
ST	1.5	2550	160	268	0.063	0.105
SR (OL)	2	3400	0	643	0.000	0.189 *
EL	2	3400	775	281	0.228	0.083 *
ET	3	5100	2122	914	0.416 *	0.179
ER	1	1700	297	204	0.175	0.120
WL	1	1700	97	145	0.057 *	0.085
WT	4	6800	626	2387	0.128	0.378 *
WR (defacto)	0	0	241	184	0.142	0.108

CLEARANCE	0.05	0.05
CRITICAL RIGHT	-	-
ICU	0.79	0.82
LOS	C	D

NOTE:

ICU is the sum of critical movements denoted by an asterisk (*) plus critical right-turn value if any.

INTERSECTION CAPACITY UTILIZATION CALCULATION WORKSHEET

INTERSECTION: Superior Drive (N/S) and West Coast Highway (E/W)

CONDITION: Proposed Improvements with Forecasted Volumes at 2% Growth per Year (5 years)

COUNT DATE: Thur Sept 27, 2018

DATE: 16-Oct-18

Note: Split phasing on N-S approaches (OL) - Right-turn overlap phase

INTERSECTION CAPACITY UTILIZATION (ICU) ANALYSIS

MOVEMENT	LANES	SAT. CAPACITY (C)	VOLUME		V/C	
			AM	PM	AM	PM
NL	1.5	2550	171	308	0.067	0.121 *
NT	1	1700	268	199	0.158	0.117
NR	0.5	850	165	79	0.194 *	0.093
SL	1.5	2550	184	248	0.072 *	0.097
ST	1.5	2550	160	268	0.063	0.105 *
SR (FREE)	0	0	0	0	0.000	0.000
EL	2	3400	775	281	0.228	0.083 *
ET	4	6800	2122	914	0.356 *	0.164
ER	0	0	297	204	0.175	0.120
WL	1	1700	97	145	0.057 *	0.085
WT	4	6800	626	2387	0.128	0.378 *
WR (defacto)	0	0	241	184	0.142	0.108

CLEARANCE	0.05	0.05
CRITICAL RIGHT	-	-
ICU	0.73	0.74
LOS	C	C

NOTE:

ICU is the sum of critical movements denoted by an asterisk (*) plus critical right-turn value if any.

Transportation Studies, Inc.

2640 Walnut Avenue, Suite L
Tustin, CA. 92780

Location : COAST HIGHWAY
Segment : W/O SUPERIOR AVENUE
Client : CITY NEWPORT BCH

Site: NEWPORT BCH
Date: 09/26/18
D1809100

Interval	WB				EB				Combined				Day:	Wednesday
Begin	AM		PM		AM		PM		AM		PM			
12:00	78	224	431	1.612	28	107	260	1.156	106	331	691	2.768		
12:15	50		360		41		280		91		640			
12:30	46		430		17		314		63		744			
12:45	50		391		21		302		71		693			
01:00	23	108	388	1.818	16	47	280	1.311	39	155	668	3.129		
01:15	33		446		14		366		47		812			
01:30	34		446		7		323		41		769			
01:45	18		538		10		342		28		880			
02:00	28	59	566	2.278	7	50	294	1.200	35	109	860	3.478		
02:15	11		520		19		270		30		790			
02:30	12		594		12		303		24		897			
02:45	8		598		12		333		20		931			
03:00	18	63	654	2.852	15	50	324	1.350	33	113	978	4.202		
03:15	16		666		11		350		27		1,016			
03:30	12		778		11		328		23		1,106			
03:45	17		754		13		348		30		1,102			
04:00	6	79	879	3.667	10	96	336	1.262	16	175	1,215	4.929		
04:15	29		938		10		294		39		1,232			
04:30	22		920		22		298		44		1,218			
04:45	22		930		54		334		76		1,264			
05:00	40	217	1,046	3.867	40	384	334	1.389	80	601	1,380	5.256		
05:15	45		1,000		82		361		127		1,361			
05:30	62		960		115		330		177		1,290			
05:45	70		861		147		364		217		1,225			
06:00	103	463	792	2.876	158	1,398	312	1.139	261	1,861	1,104	4.015		
06:15	121		812		242		300		363		1,112			
06:30	114		792		382		262		496		1,054			
06:45	125		480		616		265		741		745			
07:00	194	969	438	1.736	540	3,117	236	773	734	4,086	674	2.509		
07:15	185		448		738		210		923		658			
07:30	286		470		925		166		1,211		636			
07:45	304		380		914		161		1,218		541			
08:00	376	1,272	310	1.192	696	3,037	123	559	1,072	4,309	433	1.751		
08:15	328		352		762		142		1,090		494			
08:30	278		268		767		142		1,045		410			
08:45	290		262		812		152		1,102		414			
09:00	263	1,152	270	931	616	2,018	120	438	879	3,170	390	1,369		
09:15	272		277		498		108		770		385			
09:30	316		208		444		96		760		304			
09:45	301		176		460		114		761		290			
10:00	292	1,280	169	588	360	1,379	88	317	652	2,659	257	905		
10:15	339		162		322		92		661		254			
10:30	329		133		347		81		676		214			
10:45	320		124		350		56		670		180			
11:00	371	1,490	102	369	288	1,256	48	178	659	2,746	150	547		
11:15	370		104		328		48		698		152			
11:30	365		93		290		52		655		145			
11:45	384		70		350		30		734		100			
Totals	7,376		23,786		12,939		11,072		20,315		34,858			
Split%	36.3		68.2		63.7		31.8							
Day Totals		31.162				24.011				55.173				
Day Splits		56.5				43.5								
Peak Hour	11:00		04:45		07:30		05:00		07:30		04:45			
Volume	1,490		3,936		3,297		1,389		4,591		5,295			
Factor	0.97		0.94		0.89		0.95		0.94		0.96			

Transportation Studies, Inc.

2640 Walnut Avenue, Suite L

Tustin, CA. 92780

Location : COAST HIGHWAY
Segment : E/O SUPERIOR AVENUE
Client : CITY NEWPORT BCH

Site: NEWPORT BCH
Date: 09/26/18

Interval	WB				EB				Combined				Day:	Wednesday
Begin	AM		PM		AM		PM		AM		PM			
12:00	29	79	175	672	14	67	278	1,174	43	146	453	1,846		
12:15	16		166		30		292		46		458			
12:30	18		170		11		322		29		492			
12:45	16		161		12		282		28		443			
01:00	10	28	164	772	15	43	288	1,123	25	71	452	1,895		
01:15	9		176		12		311		21		487			
01:30	7		200		2		252		9		452			
01:45	2		232		14		272		16		504			
02:00	12	25	211	899	7	42	234	1,036	19	67	445	1,935		
02:15	4		207		12		238		16		445			
02:30	3		231		12		284		15		515			
02:45	6		250		11		280		17		530			
03:00	9	23	224	1,106	14	43	293	1,282	23	66	517	2,388		
03:15	5		278		11		330		16		608			
03:30	1		306		8		326		9		632			
03:45	8		298		10		333		18		631			
04:00	6	32	366	1,402	11	88	338	1,174	17	120	704	2,576		
04:15	8		335		10		286		18		621			
04:30	8		350		22		284		30		634			
04:45	10		351		45		266		55		617			
05:00	16	92	366	1,370	48	369	314	1,205	64	461	680	2,575		
05:15	18		314		72		306		90		620			
05:30	22		357		109		274		131		631			
05:45	36		333		140		311		176		644			
06:00	42	215	368	1,238	130	1,169	264	1,007	172	1,384	632	2,245		
06:15	55		324		212		265		267		589			
06:30	50		338		354		224		404		562			
06:45	68		208		473		254		541		462			
07:00	58	380	206	750	462	2,387	202	669	520	2,767	408	1,419		
07:15	66		199		572		177		638		376			
07:30	126		194		681		160		807		354			
07:45	130		151		672		130		802		281			
08:00	148	539	154	577	532	2,173	108	484	680	2,712	262	1,061		
08:15	134		180		573		124		707		304			
08:30	127		124		556		136		683		260			
08:45	130		119		512		116		642		235			
09:00	178	670	136	479	462	1,580	90	344	640	2,250	226	823		
09:15	168		120		392		84		560		204			
09:30	174		119		380		68		554		187			
09:45	150		104		346		102		496		206			
10:00	166	690	76	290	292	1,110	98	326	458	1,800	174	616		
10:15	189		82		270		72		459		154			
10:30	189		82		286		92		475		174			
10:45	146		50		262		64		408		114			
11:00	166	604	43	161	266	1,128	44	152	432	1,732	87	313		
11:15	140		48		288		47		428		95			
11:30	140		41		272		40		412		81			
11:45	158		29		302		21		460		50			
Totals	3,377		9,716		10,199		9,976		13,576		19,692			
Split%	24.9		49.3		75.1		50.7							
Day Totals		13,093				20,175				33,268				
Day Splits		39.4				60.6								
Peak Hour	09:45		04:00		07:30		03:15		07:30		03:45			
Volume	694		1,402		2,458		1,327		2,996		2,590			
Factor	0.92		0.96		0.90		0.98		0.93		0.92			

Transportation Studies, Inc.

2640 Walnut Avenue, Suite L
Tustin, CA. 92780

Location : BALBOA BOULEVARD
Segment : S/O COAST HIGHWAY
Client : CITY NEWPORT BCH

Site: NEWPORT BCH
Date: 09/26/18

Interval	NB				SB				Combined				Day:	Wednesday
Begin	AM		PM		AM		PM		AM		PM			
12:00	31	95	154	578	32	138	199	923	63	233	353	1,501		
12:15	29		132		48		223		77		355			
12:30	23		162		24		228		47		390			
12:45	12		130		34		273		46		403			
01:00	24	62	172	637	21	63	212	892	45	125	384	1,529		
01:15	14		176		20		228		34		404			
01:30	18		140		16		203		34		343			
01:45	6		149		6		249		12		398			
02:00	14	42	172	642	12	40	218	811	26	82	390	1,453		
02:15	12		162		12		184		24		346			
02:30	12		154		8		222		20		376			
02:45	4		154		8		187		12		341			
03:00	14	39	176	710	8	26	217	955	22	65	393	1,665		
03:15	8		162		6		248		14		410			
03:30	5		194		2		234		7		428			
03:45	12		178		10		256		22		434			
04:00	2	32	186	727	4	26	231	966	6	58	417	1,693		
04:15	10		196		8		245		18		441			
04:30	7		183		6		238		13		421			
04:45	13		162		8		252		21		414			
05:00	16	139	186	702	19	129	227	1,083	35	268	413	1,785		
05:15	33		190		29		294		62		484			
05:30	26		158		31		260		57		418			
05:45	64		168		50		302		114		470			
06:00	62	352	180	659	78	427	288	1,112	140	779	468	1,771		
06:15	78		147		98		288		176		435			
06:30	106		166		99		306		205		472			
06:45	106		166		152		230		258		396			
07:00	111	603	144	568	151	902	213	715	262	1,505	357	1,283		
07:15	129		178		181		208		310		386			
07:30	187		146		232		158		419		304			
07:45	176		100		338		136		514		236			
08:00	226	756	98	398	210	906	151	648	436	1,662	249	1,046		
08:15	178		108		242		193		420		301			
08:30	182		106		252		144		434		250			
08:45	170		86		202		160		372		246			
09:00	163	636	76	276	207	787	120	510	370	1,423	196	786		
09:15	152		56		194		130		346		186			
09:30	157		62		184		126		341		188			
09:45	164		82		202		134		366		216			
10:00	130	535	62	229	156	708	103	378	286	1,243	165	607		
10:15	136		57		192		106		328		163			
10:30	134		54		174		94		308		148			
10:45	135		56		186		75		321		131			
11:00	155	571	49	153	190	805	40	217	345	1,376	89	370		
11:15	148		40		202		66		350		106			
11:30	134		28		194		61		328		89			
11:45	134		36		219		50		353		86			
Totals	3,862		6,279		4,957		9,210		8,819		15,489			
Split%	43.8		40.5		56.2		59.5							
Day Totals	10,141				14,167				24,308					
Day Splits	41.7				58.3									
Peak Hour	07:30		03:30		07:45		05:45		07:45		05:45			
Volume	767		754		1,042		1,184		1,804		1,845			
Factor	0.85		0.96		0.77		0.97		0.88		0.98			

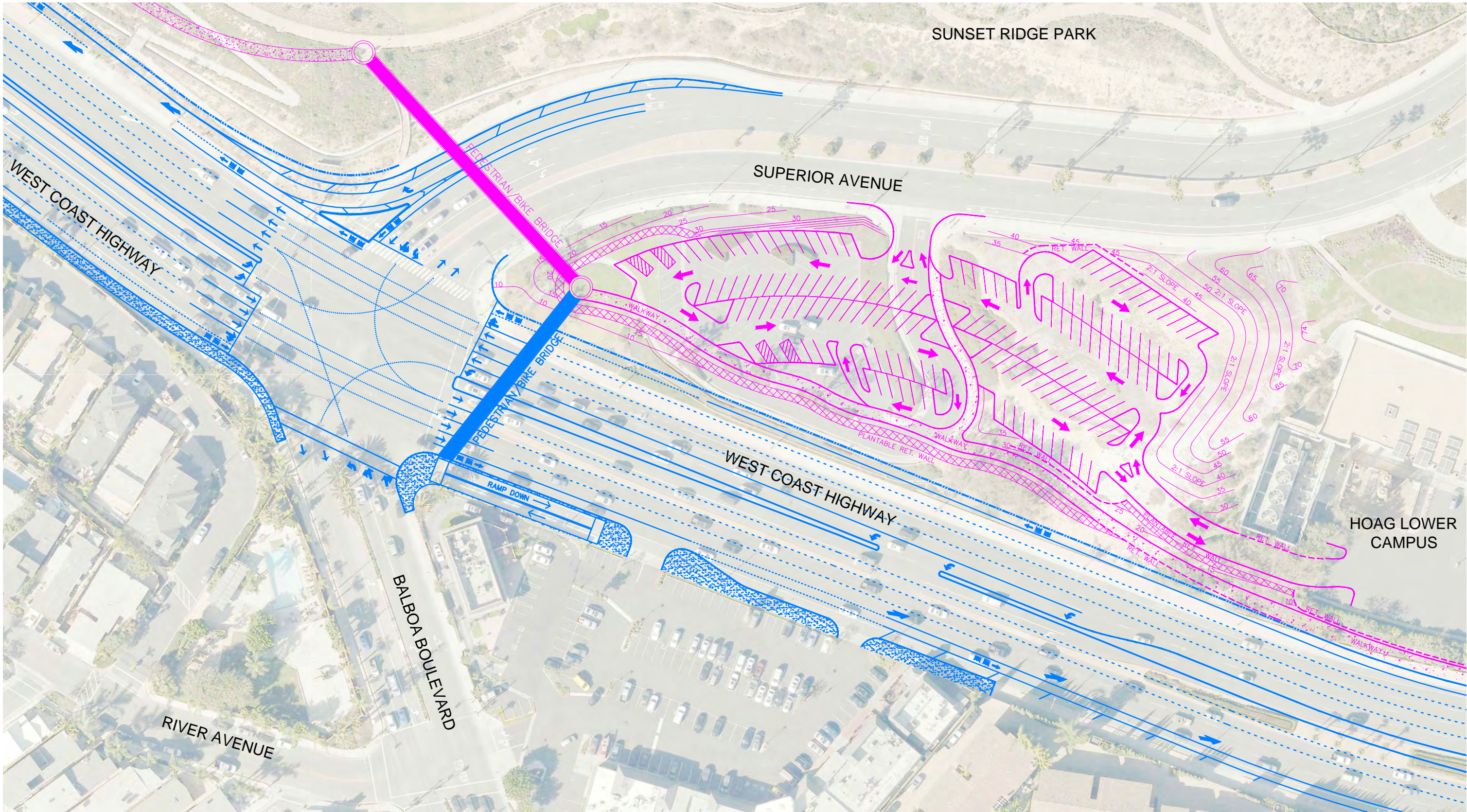
Transportation Studies, Inc.

2640 Walnut Avenue, Suite L
Tustin, CA. 92780

Location : SUPERIOR AVENUE
Segment : N/O COAST HIGHWAY
Client : CITY NEWPORT BCH

Site: NEWPORT BCH
Date: 09/26/18

Interval	NB				SB				Combined				Day:	Wednesday
Begin	AM		PM		AM		PM		AM		PM			
12:00	17	51	146	653	12	48	192	772	29	99	338	1,425		
12:15	17		166		15		175		32		341			
12:30	10		172		10		208		20		380			
12:45	7		169		11		197		18		366			
01:00	11	28	166	772	12	38	167	679	23	66	333	1,451		
01:15	5		190		11		184		16		374			
01:30	8		212		11		170		19		382			
01:45	4		204		4		158		8		362			
02:00	6	21	166	710	6	13	188	776	12	34	354	1,486		
02:15	8		175		4		194		12		369			
02:30	5		190		2		198		7		388			
02:45	2		179		1		196		3		375			
03:00	6	15	160	701	3	15	238	914	9	30	398	1,615		
03:15	4		228		4		206		8		434			
03:30	2		174		3		238		5		412			
03:45	3		139		5		232		8		371			
04:00	3	27	151	592	3	25	246	1,062	6	52	397	1,654		
04:15	2		160		8		280		10		440			
04:30	10		134		7		280		17		414			
04:45	12		147		7		256		19		403			
05:00	11	117	139	596	18	102	324	1,094	29	219	463	1,690		
05:15	24		154		16		304		40		458			
05:30	29		147		30		254		59		401			
05:45	53		156		38		212		91		368			
06:00	49	382	150	572	44	263	214	798	93	645	364	1,370		
06:15	71		148		60		216		131		364			
06:30	106		122		73		198		179		320			
06:45	156		152		86		170		242		322			
07:00	137	945	131	484	101	529	130	458	238	1,474	261	942		
07:15	198		124		128		134		326		258			
07:30	260		108		126		108		386		216			
07:45	350		121		174		86		524		207			
08:00	294	1,258	67	294	148	554	86	333	442	1,812	153	627		
08:15	312		77		143		91		455		168			
08:30	316		74		146		80		462		154			
08:45	336		76		117		76		453		152			
09:00	258	910	58	244	109	479	85	289	367	1,389	143	533		
09:15	232		57		118		86		350		143			
09:30	192		62		126		64		318		126			
09:45	228		67		126		54		354		121			
10:00	198	747	51	174	150	594	44	156	348	1,341	95	330		
10:15	184		48		146		42		330		90			
10:30	169		52		156		34		325		86			
10:45	196		23		142		36		338		59			
11:00	162	639	40	95	164	645	21	95	326	1,284	61	190		
11:15	179		17		144		25		323		42			
11:30	138		19		173		25		311		44			
11:45	160		19		164		24		324		43			
Totals	5,140		5,887		3,305		7,426		8,445		13,313			
Split%	60.9		44.2		39.1		55.8							
Day Totals		11,027				10,731				21,758				
Day Splits		50.7				49.3								
Peak Hour	07:45		01:00		11:00		04:30		07:45		04:30			
Volume	1,272		772		645		1,164		1,883		1,738			
Factor	0.91		0.91		0.93		0.90		0.90		0.94			



LAYOUT PLAN

LEGEND

- PROPOSED SUPERIOR AVENUE PEDESTRIAN/BIKE BRIDGE AND PARKING LOT (PHASE 1 – NOT PART OF FUNDING APPLICATION)
- PROPOSED WEST COAST HIGHWAY WIDENING AND WEST COAST HIGHWAY PEDESTRIAN/BIKE BRIDGE (PHASE 2)



23 NTS

CONCEPT PLANS	
WEST COAST HWY AND SUPERIOR AVE/BALBOA BLVD INTERSECTION IMPROVEMENTS (PHASE 2)	
CITY OF NEWPORT BEACH PUBLIC WORKS DEPARTMENT	DATE: 10/10/2018 SHEET 1 OF 1