

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-22-0667

Applicant: Sunset Beach Sanitary District

Agent: Thomas M. Dawes, District Engineer

Location: Sunset Beach Green Belt and North Pacific Avenue
Between Warner Avenue & Broadway,
Huntington Beach, Orange County
APNs: 178-530-1; 178-546-1; 178-547-1; 178-551-26;
178-551-25

Project Description: Broadway Pump Station Bypass Sewer Project, consisting of: abandon in place existing pump station and one related sewer pipeline, and construct new, below grade, 15-inch PVC gravity bypass pipeline. Construction is expected to last 9 to 12 months and will occur only during non-summer months (between Labor Day and Memorial Day Weekend). No change in existing capacity is needed or will result from the proposed project. Eight Mexican fan palms and two eucalyptus trees will be removed in conjunction with the proposed project. For each tree removed, two will be planted. Project will be phased to minimize impacts to public access parking and Greenbelt Park.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The subject site is located within and along the inland side of Greenbelt Park and parking area in the Sunset Beach area of the City of Huntington Beach ([Exhibit 1](#)). The pump station to be abandoned is located below the street in the intersection of Broadway and North Pacific Avenue. Sunset Beach is located on a low-lying, relatively narrow strip of land between two water bodies – with the ocean to the southwest and Huntington Harbour to the northeast. Due to its low-lying location between the oceanfront and the harbor, Sunset Beach has historically been subject to flooding and damage during storm conditions. Flooding of areas along Pacific Coast Highway from Huntington Harbour occurs in Sunset Beach now with extreme high tides. Flooding from the harbor inland of the subject site may occur earlier than beach flooding and erosion from the ocean. Even under current conditions, flooding in the area worsens when high tides occur together with storm activities. USGS CoSMoS modeling suggests these hazards may be exacerbated by expected future sea level rise.

The project proposes to abandon the existing underground sewer pump station and one existing sewer pipeline, and to replace them with a new gravity sewer pipeline. The pump station was constructed in 1935. The existing pump station and pipeline are near the end of their useful lives. For safety reasons, electrical equipment, such as the electrical motors at the pump station, should not be located below ground in a flood hazard area. Flooding of the pump station would put it out of service, potentially leading to sewage spills. Currently, the pump station requires constant monitoring and maintenance to avoid sewage spills. As the site is less than two blocks from the waters of Huntington Harbour to the northeast and from Sunset Beach to the southwest, a spill could enter tidal waters, especially during high tide and/or storm conditions. The threat of a spill is expected to worsen with future sea level rise. Construction of the proposed gravity sewer pipeline will eliminate the need for the existing below grade pump and related electrical equipment in a flood hazard area. The proposed project is intended to increase the resiliency of the sewer network in Sunset Beach as coastal hazards resulting from future sea level rise increase.

The proposed new, below grade, 15-inch PVC (polyvinyl chloride) gravity bypass pipeline will be located in roughly the same alignment as the existing pipelines. The proposed gravity sewer pipeline will collect the sewage currently directed to the sewer pump station. The new pipeline will connect to the existing City of Huntington Beach gravity sewer pipeline in Warner Avenue at Pacific Coast Highway. Construction of the new pipeline would involve trenching, with some areas of tunneling (jack and bore). Trench depths will vary between 14 and 16 feet below grade.

The subject site is located along the northern (inland) side of Greenbelt Park and parking area. The parking spaces in this area are free of time restrictions and free to the public. In addition to being adjacent to the public park, the parking spaces are about one

block from the sandy public beach known as Sunset Beach. To avoid public access impacts, as proposed, no work will occur during the peak use summer months (no work from Memorial Day weekend through Labor Day). In addition, the project is proposed to occur in approximately sixteen phases, with only the length of one phase closed and unavailable to the public at a time. The length of each phase varies, but the phases roughly correspond to one block. The area of one phase will be restored and re-opened to the public before the next phase of work begins. In areas where construction would interfere with the Greenbelt walkway, the walkway will be temporarily relocated for the duration of that project phase; allowing continuous public use of the walkway for the duration of project construction. All public restrooms in Greenbelt Park, including the public restroom at the southern end of the park nearest the project staging and storage area, will remain open during construction.

A habitat survey prepared in conjunction with the proposed project identified four active Black Crowned Night Heron nests present in eucalyptus trees located in the project area ([Exhibit 3](#)). In the area closest to three of the nests, the proposed project includes tunneling rather than trenching, to reduce impacts to the nests. As the pipeline will be placed 14 to 16 feet below the surface, and eucalyptus trees have relatively shallow root systems, impacts to tree roots are not expected. As proposed, the project phases would have occurred in order from south to north. However, the applicant has indicated that phases may occur out of order as needed to conduct work nearest the nest trees outside the nesting season. This will also help to reduce impacts to the nesting birds. **Special Condition No. 1** outlines the measures to be incorporated into project to protect nesting sensitive birds.

Eight Mexican fan palms and two eucalyptus trees will be removed in conjunction with the proposed project. No trees with active sensitive bird nests, including heron nests, will be removed. For each tree removed, two will be planted (a total of 20 trees). However, the type and location of the replacement trees have not yet been identified. It is important that all of the replacement trees be suitable to support heron and egret nesting and roosting. In addition, it is important that some degree of tree success be assured into the future. The proposal to replace the lost trees at a 2:1 ratio is intended to contribute to the likely success of the replacement trees and addresses the interim period between when the trees are lost and the time the new trees reach a similar level of maturity and usefulness for nesting. The Commission's staff ecologist, in conjunction with input from the applicant's biological consultant, recommends that five of the 20 replacement trees be Aleppo pines, which although not native, are known to be used by herons and egrets for nesting and roosting, and that the remainder of the replacement trees (15) be a mix of the of the following native trees: Torrey pine and Monterey pine. **Special Condition No. 2** requires the applicant to prepare and implement a Tree Replacement Plan that includes these tree types, identifies the location of each of the 20 replacement trees, acknowledges that failed trees will be replaced, requires five years of monitoring and submittal of annual reports to the Executive Director, with a final report at the end of year five.

Project trenching will result in approximately 18,000 cubic yards of excavation. Most of the excavated material will be replaced back in the trenched areas. The subject site is located in an area recognized by the Native American Heritage Commission's Sacred Lands File as positive for the presence of Native American cultural resources. Consultation Notices were sent to twelve Native American groups, including the two identified by the NAHC as affected groups. Consultations were requested by the Gabrieliño Tongva Indians of California Tribal Council and the Juaneño Band of Mission Indians Acjachemen Nation. The representatives of both tribal groups stressed the cultural sensitivity of the site and project vicinity, and emphasized the need for Native American monitoring of the proposed project. **Special Condition 3** requires the applicant to prepare and implement a Cultural Resource Treatment and Monitoring Plan. Implementation of the required plan will ensure that appropriate Native American monitors and archeological professionals are present during all ground-disturbing activities and that any resources found are treated in accordance with best practices, including best practices identified through consultation with the appropriate tribal government(s).

The subject site is located in one of two uncertified areas of the otherwise certified City of Huntington Beach. The Coastal Commission is the permit-issuing entity for the proposed project and the Chapter 3 policies of the Coastal Act are the standard of review. The City has approved the project in concept.

In addition to Special Condition Nos. 1 – 3 described above, staff is recommending: **Special Condition No. 4** requires, consistent with the applicant's proposal, all construction work occur outside the peak use summer period and that work be implemented in phases; **Special Condition No. 5** requires the applicant to conform with the requirements of any other resource agencies, and that any changes required by those agencies be submitted for a determination as to whether or not the change(s) trigger the need for a CDP amendment or new CDP; **Special Condition No. 6** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. Commission staff is recommending **APPROVAL** of the coastal development permit application with the six special conditions summarized above and reflected in full beginning on **Page 7**. The motion to approve the coastal development permit application as recommended by staff is on **Page 6**.

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EXHIBITS

- Exhibit 1 – Vicinity
- Exhibit 2 – Project Plans
- Exhibit 3 – Active Nests Locations
- Exhibit 4 – Tunneling Locations
- Exhibit 5 – Project Phasing Plan
- Exhibit 6 – Dewatering Plan
- Exhibit 7 – RWQCB Application

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-22-0667 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided that the assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind

all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Pre-Construction Nesting Bird Survey & Construction Responsibilities

A. Prior to commencement of any work during the Bird Nesting Season (February 1 to September 1), the permittee shall retain the services of a qualified biologist to conduct nesting bird survey(s) in order to determine the presence of any active bird nests of any sensitive bird species including, but not limited to, black-crowned night herons, great blue herons, and snowy egrets (colonial wading birds). The required survey(s) shall be conducted within 30 days prior to planned commencement or re-commencement of construction. More than 30 days prior to planned initial commencement of construction, the permittee shall submit the name and qualifications of the biologist, for the review and approval of the Executive Director. To avoid impacts to nesting sensitive birds, all project construction activities shall be carried out consistent with the following:

- 1) If no active sensitive bird nests are identified within 300 feet of the proposed project's active construction footprint, then that project construction phase may proceed without restrictions related to nesting birds.
- 2) If active sensitive bird nests are identified within 300 feet of the proposed project's active construction footprint, then construction shall be phased such that all work within 300 feet of any active nest occurs outside the nesting season; or,
- 3) Only if Item 2 above is infeasible: If active sensitive bird nests are found within 300 feet of the proposed project's active construction footprint, then construction may commence only if:
 - a. construction noise decibels are measured to be less than sixty (60) decibels. To achieve decibel levels below sixty (60), noise barriers such as sound shields, sound walls, mounted vinyl sound blankets, or similar devices may be employed to bring the noise level below 60 decibels; or,
 - b. an Ambient Noise Level Study may be conducted. If construction noise is at or below Ambient Noise Level, construction may occur within 300 feet of an active nest.
- 4) Any work that occurs within 300 feet of an active sensitive bird nest shall be monitored by the approved project biologist.
- 5) The approved project biologist shall have the ability to halt work if deemed necessary to protect sensitive bird nesting.

6) If none of these requirements can be met, then construction shall cease until the non-nesting season except in areas where the project's active construction footprint is more than 300 feet from any active nest(s).

B. Decibel Noise Levels and/or an Ambient Noise Level Study must be determined by a qualified professional with expertise in acoustics. The type and location of noise barrier(s) shall be determined jointly by the approved project biologist and appropriately qualified acoustician. Construction noise levels shall be monitored daily at the location of the active nest(s) with the noise barrier(s) in place for the duration of the construction within 300 feet of the active nest(s).

C. The permittee shall implement the project in conformance with the requirements of this special condition.

2. Tree Replacement Plan

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a Tree Replacement Plan that incorporates all of the following measures:

1) Replacement trees shall be comprised of (5) Aleppo pine (*Pinus halepensis*), and fifteen (15) trees comprised of a mix of the following species: torrey pine (*Pinus torreyana*), and Monterey pine (*P. radiata*).

2) A planting plan that identifies the type, box size, and location on-site of each replacement tree.

3) Monitoring of all the replacement trees shall be conducted annually for five (5) years by a certified arborist who shall assess the health of each tree. The five year monitoring period shall commence after the planting of the twentieth replacement tree. If any of the replacement trees are not establishing well and need to be replaced, each such tree shall be replaced with one of the types of replacement trees listed in Item 1 above, that are healthy and establishing well.

4) Removal and replacement of any unsuccessful tree shall occur outside the nesting season (the nesting season is from February 1 to September 1).

5) The project arborist shall submit an Annual Report to the Executive Director, with information including but not necessarily limited to, a description of the health and success of replacement each tree, a description of any tree that will be or has been replaced including its type and location, the reasons necessitating the replacement, the type of tree the failed tree was replaced with, and the replacement location. The annual report shall include photos of each of the replacement trees and a map indicating each tree's location within the Greenbelt Park. The project arborist shall prepare a final sign off report to be submitted to the Executive Director at end of year five.

B. The permittee shall implement the final Tree Replacement Plan as approved.

3. Cultural Resources Treatment and Monitoring Plan.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a Cultural Resources and Treatment Monitoring Plan prepared by a qualified professional archaeologist, which shall incorporate the following measures and procedures:

1. The monitoring plan shall ensure that any prehistoric archaeological or paleontological or Native American cultural resources that are present on the site and could be impacted by the approved development will be identified so that a plan for their protection can be developed. The methods of protection of Tribal Cultural Resources shall be developed in consultation with the appropriate Native American tribal government(s). To this end, the cultural resources monitoring plan shall require that archaeological and Native American monitors be present during all grading operations and subsurface construction activity that has the potential to impact cultural resources. If the site is a shared prehistoric territory, one Native American monitor from each affected tribe shall be present during all ground disturbance.

2. There shall be at least one pre-grading conference with the project manager and grading contractor at the project site to discuss the potential for the discovery of archaeological/cultural or paleontological resources. Prior to grading operations, a copy of all archeological documents and reports shall be provided to the Native American monitors.

3. Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent(s) (MLD) when State Law mandates identification of an MLD, shall monitor all project grading and subsurface construction activity (such as trenching for utilities) that has the potential to impact cultural resources, as required in the approved cultural resources monitoring plan required above.

4. The permittee shall provide sufficient archaeological and Native American monitors to assure that all project grading and subsurface construction activities that have any potential to uncover or otherwise disturb cultural deposits are monitored at all times.

5. If any archaeological or paleontological, or cultural deposits, are discovered, including but not limited to skeletal remains and grave related artifacts, artifacts of traditional cultural, religious or spiritual sites, or any other artifacts relating to the use or habitation sites, all construction shall cease. Treatment of the discovery shall be determined by the appropriate monitor or the MLD. Significance testing may be carried out only if acceptable to the affected Native American Tribe(s), in

accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (Appendix B). The permittee shall report all discovered resources as soon as possible, by phone and/or by email to the Executive Director. The permittee shall provide the significance testing results and analysis to the Executive Director, if applicable.

B. If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe(s) is in conflict with the approved development plan, the permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered. Development shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment

4. Construction Timing & Methods

Consistent with the applicant's proposal, all work shall occur outside the peak visitor use summer period (between Memorial Day Weekend and Labor Day). Consistent with the applicant's proposal, all work shall be carried out in small, phased sections. Both of these measures are intended to limit impacts to nesting birds and to public access.

5. Conformance with the Requirements of the Resource Agencies.

This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies, including but not limited to the Regional Water Quality Control Board and California Department of Transportation. Any change in the approved project which is required by the other agencies shall be submitted to the Executive Director in order to determine whether the proposed change requires an amendment to this permit or a new coastal development, or if none is legally required pursuant to the requirements of the Coastal Act and the California Code of Regulations.

6. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris. By acceptance of this permit, the applicant agrees to comply with the following construction-related requirements:

- A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
- B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
- C. Any and all debris resulting from demolition or construction activities shall be removed from the subject site within 24 hours of completion of the project;
- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent

- the accumulation of sediment and other debris that may be discharged into coastal waters;
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
 - F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
 - H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
 - I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary sewer or storm drain systems;
 - J. The discharge of any hazardous materials into any receiving waters shall be prohibited;
 - K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
 - L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
 - M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The proposed project is a request to abandon an existing underground sewer pump station (including two pumps, electric motors, and a wet well) constructed in 1935, and an associated 6-inch polyvinyl chloride (PVC) pressure pipe (force main) constructed in 1983 (expected life at time of construction in 1983 was 35 years, so until 2018). The proposed project also includes construction of a new, below grade, 15-inch PVC gravity bypass sewer pipeline in roughly the same alignment as the existing pipelines. The proposed alignment falls just to the west of the existing, proposed-to-remain 10-inch gravity sewer force main. The existing and proposed pipeline alignments are located in the North Pacific Avenue parking areas or in Greenbelt Park, depending where along the pipeline construction is occurring ([Exhibits 1 & 2](#)). The proposed gravity sewer pipeline will collect the sewage currently directed to the sewer pump station. It will have a design flow of 500 gallons per minute (gpm) and would accommodate a peak flow of 750 gpm. The new pipeline will connect to the existing City of Huntington Beach gravity sewer pipeline in Warner Avenue at Pacific Coast Highway. An existing 10-inch gravity sewer pipeline will not be abandoned and will remain in service. Currently this 10-inch gravity sewer pipeline receives about 10% of the Broadway Pump Station discharge. The 10-inch gravity sewer pipeline will continue to receive about 10% of the flow. The connection between the existing 10-inch gravity sewer pipeline to the Broadway Pump Station will be abandoned. In addition, seventeen new sewer access holes (“manholes”) will be constructed to facilitate access to the new pipeline for maintenance purposes. The 10 feet by 10 feet by 15 feet deep pump station will be abandoned in place by removing the underground pumps and motors, and knocking down the side walls. The pump station will then be backfilled with slurry and sealed. The project is proposed to begin at Warner Avenue, and move north in phases until it reaches Broadway, but modifications to this schedule may occur (as described later). As the service area is already built out, no change in existing capacity is needed or will result from the proposed project.

The existing pump station is at or near the end of its life and pipeline is past its expected life. The pump station proposed to be abandoned requires constant monitoring and maintenance to avoid sewage spills. The subject site and surrounding area are very low-lying, and many of the streets flood when normal, yearly high tides occur. For safety reasons electrical equipment, such as the electrical motors at the pump station, should not be located below ground in a flood hazard area. The proposed gravity sewer line will eliminate the need for the existing below grade pump and related electrical equipment. Flooding of the pump station would put it out of service, potentially leading to sewage spills. As the site is less than two blocks from the waters of Huntington Harbour to the northeast and from Sunset Beach ocean beach to the southwest, a spill could enter tidal waters, especially during high tide and/or storm conditions. The proposed project is intended to increase the resiliency of the sewer network in Sunset Beach as coastal hazards, including hazards due to sea level rise, increase. The pump station is located

below the street in at the northeast corner of the intersection of Broadway and North Pacific Avenue.

Construction of the new pipeline would involve trenching, with some areas of tunneling. In the area between 8th and 9th Streets and between 10th and 11th Streets, tunneling rather than trenching is proposed ([Exhibit 4](#)). Tunneling is proposed to protect existing trees and active heron nests, to minimize impacts to public access, and to avoid conflicts with existing facilities. The total length of pipeline is approximately 3,300 linear feet (from Broadway to Warner Avenue). The proposed trench will be up to 14 feet deep, but excavation will extend about one foot deeper than the pipe to allow 1-foot of pipeline bedding material (foundation material) to be placed beneath the pipeline for stability. A total of approximately 18,000 cubic yards will be excavated. Most of the excavated material will be replaced back in the trenches following placement of the pipeline in the trench. If there is any excess material, it will be hauled away and disposed of appropriately outside the coastal zone.

In the area of tunneling, a jack and bore method will be used. This method requires excavation of access pits (also called jacking and receiving pits). In the tunneling area between 8th and 9th Streets, the access/jacking pit will be 30 feet by 10 feet at the southern end, and the access/receiving pit will be 10 feet by 10 feet at the northern end. In the tunneling area between 10th and 11th Streets, the access/receiving pit at the southern end will be 10 feet by 10 feet, and the access/jacking pit at the northern end will be 30 feet by 10 feet. This jack and bore tunneling method allows the pipeline to be pushed and pulled into place from the access pits, avoiding the need for surface disturbance. As the pipeline will be placed 14 to 16 feet below the surface, and the nearest trees (Mexican fan palms and Eucalyptus trees) both have relatively shallow root systems, impacts to tree roots are not anticipated.

Construction is expected to last 9 to 12 months and will occur only during non-peak use summer months (no work will occur from Memorial Day weekend through Labor Day). Currently, the project is expected to begin after Labor Day 2023 and to be completed before Memorial Day Weekend 2024. But if the work is not completed before Memorial Day Weekend 2024, then the project will be shut down and the area restored to its previous condition until after Labor Day 2024. Work located within Pacific Coast Highway at Warner Avenue will occur at night only, as required by Caltrans. All other work will occur during daylight hours.

As proposed, the project will occur in approximately 16 phases. Each phase roughly corresponds to a distance of approximately one block, although there will be some variation in phase lengths ([Exhibit 5](#)). Each project phase will be completed and the area re-opened before the next phase begins. Parking and traffic detours will largely be limited only to within each of the phase areas for the duration of that phase. A temporary public access path will be created in Greenbelt Park for each phase of construction that impacts the path, allowing the public continuous use of the path for the duration of the project. The phased construction is intended to reduce public access

impacts due to temporary closure of public parking spaces, public use of Greenbelt Park, and traffic detours.

Approximately 24 public parking spaces in the public parking lot nearest Warner Avenue will be used for contractor staging (including storage of construction vehicles and equipment) for the duration of construction. The remaining 77 parking spaces within that parking lot will be available for public use, except during construction Phases 3 and 4, which traverse the lot. Public parking spaces adjacent to Greenbelt Park along North Pacific Avenue will be closed only for the duration of each project phase, and re-opened prior to commencing the next project phase. All of the public parking spaces will be available to the public during the summer months (Memorial Day Weekend through Labor Day).

Eight Mexican fan palms and two eucalyptus trees will be removed in conjunction with the proposed project. For each tree removed, two will be planted (a total of 20 replacement trees). Four active Black Crowned Nigh Heron nests were identified during the 7/8/2022 field survey (Biological Resources Technical Memorandum, LSA, 9/2/2022). None of the trees supporting active nests will be removed. As originally proposed, work was to be conducted from south (Warner Avenue) to north (Broadway). However, the applicant has indicated that phases may occur out of order as needed to conduct work nearest the nest trees outside the nesting season to reduce impacts to nesting sensitive birds.

The proposed project is located along the northern portion of Greenbelt Park and in parking areas within North Pacific Avenue adjacent to the park ([Exhibit 1](#)). Greenbelt Park is located between North and South Pacific Avenues, extending the length of Sunset Beach from Anderson Street in the north to Warner Avenue in the south. It is a grassy area, with a concrete walkway, benches, public restrooms, and a playground. Diagonal, head-in public parking is located on both sides of Greenbelt Park, with a larger public parking lot located between the end of Greenbelt Park and Warner Avenue. All of these parking spaces are available free to the public. Greenbelt Park is one block from the sandy public ocean beach. Development along North and South Pacific Avenues is primarily residential with a few commercial uses.

The subject site is located in the area known as Sunset Beach, which was annexed into the City of Huntington Beach in 2011. Sunset Beach is located between the ocean and Huntington Harbour. Pacific Coast Highway is located one block inland/east of the subject site. The County's formerly certified Local Coastal Program for Sunset Beach lapsed upon annexation in 2011. The Sunset Beach area has not yet been incorporated into the City of Huntington Beach LCP. Therefore, the Commission is the permit-issuing entity for the proposed project and the Chapter 3 policies of the Coastal Act are the standard of review. The City of Huntington Beach approved the proposed project in concept on June 30, 2022.

B. Biological Resources

Coastal Act Section 30240(b):

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

The subject site is located within and adjacent to a park and recreation area (Greenbelt Park) and less than two blocks from the beach to the southwest and Huntington Harbour to the northeast ([Exhibit 1](#)).

A Biological Resources Technical Memorandum was prepared for the proposed project by LSA, dated 9/2/2022 (Report). Regarding the subject site, the Report states:

Vegetation

The project site is strictly upland in nature, consisting of developed and ornamental landscaped areas that contain paved roadway (Warner Avenue, North and South Pacific Avenue and cross streets, and Broadway) and the Sunset Beach greenbelt linear park. The highly developed nature of the project site limits the potential for native flora to occur on the project site. A complete list of plant species identified within and adjacent to the proposed project site is provided in Attachment C. Vegetation and landcover types were evaluated using *Methods Used to Survey the Vegetation of Orange County Parks and Open Space Areas and Irvine Company Property* by Jones and Stokes and Associates (1993).

Ornamental landscaping is a habitat type located primarily within the greenbelt of the project site and adjoining the adjacent residential streets. This plant community consists of various nonnative, ornamental plant species, including Brazilian peppertree (*Schinus terebinthifolius*), eucalyptus trees (*Eucalyptus* sp.), broad-leaved paperbark (*Melaleuca quinquenervia*), Mexican fan palm (*Washingtonia robusta*), Canary Island date palm (*Phoenix canariensis*), and Bermuda grass (*Cynodon dactylon*). These ornamental plant species are often associated with landscaped residential areas.

Developed/disturbed areas within and adjacent to project site consist of paved roadway, single family residential areas, park facilities, and retail commercial development. These areas have been subject to previous development and ongoing disturbance.

A total of 25 vascular plant species were identified within the project site during the July 8, 2022 field survey (refer to Attachment C). A total of 21 (approximately 89 percent) of these plant species represent nonnative taxa, reflecting a high level of disturbance within the project site.

Wildlife

Native wildlife habitat is largely absent on the project site. Furthermore, the lack of ground cover and suitable foraging habitat make the site undesirable for many native wildlife species; however, due to the project site's proximity to the ocean and a plethora of large trees, the project site provides suitable nesting bird habitat. There were 10 wildlife species observed during the field survey. The following 7 native species were observed: Anna's hummingbird (*Calypte anna*), California gull (*Larus californicus*), snowy egret (*Egretta thula*), black-crowned night-heron (*Nycticorax nycticorax*), American crow (*Corvus brachyrhynchos*), house finch (*Haemorhous mexicanus*), and black phoebe (*Sayornis nigricans*). The following 3 nonnative species were also observed during the field survey: European starling (*Sturnus vulgaris*), rock pigeon (*Columba livia*), and house sparrow (*Passer domesticus*). No special-status animal species were observed during the site survey, and suitable habitat for such species is absent from the proposed project disturbance limits. In addition, the project site does not function as a wildlife movement corridor.

Based on observations conducted during the July 8, 2022 field survey, 4 active black-crowned night heron nests (located within eucalyptus trees) and 1 active American crow nest (located within a Mexican fan palm) were mapped. There were 8 black-crowned night herons observed roosting and nesting within the eucalyptus trees. Of the 11 American crows observed during the field survey, 1 American crow was observed nesting within the aforementioned fan palm tree. Additionally, whitewash was observed beneath each identified nest, including beneath the inactive nests. There were 14 inactive heron nests identified throughout the central portion of the greenbelt within the project site (see Figure 3). Courtship activities were not observed. It should be noted the nesting colony for the black-crowned night heron is protected during the nesting season, thereby allowing limited construction activities where these nesting colonies occur. The nesting for this species is variable and usually begins in March.

Should construction activities occur within the nesting bird season (February 1 through August 31), minimization measures to protect nesting birds are recommended to avoid or minimize potential project-related impacts to nesting birds during construction activities.

Nesting Birds

Although the site did not generally include significant wildlife or vegetation, four active, black crowned night heron nests were observed during the biological survey conducted at the site, and eight black-crowned night herons were observed in the project vicinity. In addition, a snowy egret was also observed during the survey in the project area. Colonial wading birds such as black-crowned night herons, great blue herons, great egrets, and snowy egrets are known to nest in the project vicinity (e.g., Peter's Landing commercial center at PCH and Anderson Street, approximately 0.8 miles northeast of

the site; and at Tennis Estates residential community at Humboldt Drive and Saybrook Lane, approximately 0.9 miles east of the site).

It is important to ensure protection of nesting and roosting sites for egrets and herons, thereby protecting the local population of such birds and, by extension, the marine resources and biological productivity of the surrounding area, including Huntington Harbour, the Bolsa Chica Wetlands, and the Seal Beach National Wildlife Refuge. Herons and egrets experienced severe population declines at the turn of the 20th century when they were hunted for their beautiful feathers which were highly prized to accessorize hats. Several laws outlawing hunting, including the 1918 Migratory Bird Treaty Act, were passed and heron and egret populations recovered. While heron and egret populations are no longer threatened, the wetland ecosystems upon which they depend are in trouble. The United States Fish & Wildlife Service conducted a study of wetland loss in the United States between the 1780s and 1980s. The study found that California has lost the largest percentage of original wetland habitat (91%) of all the states.¹ It is now estimated that California has less than 500,000 wetland acres remaining (from an estimated 5 million in 1780). This is less than one-half of one percent of California's total original wetland acreage.

In southern California, many wetlands have been replaced by marinas, and herons and egrets have adapted by relocating their roosting and nesting sites to stands of tall non-native pines, palms, eucalyptus, ficus, and coral trees within highly developed areas. This relocation to non-native trees near marinas is due to the virtual absence of any native trees, the proximity of the non-native trees to primary foraging habitat, and the height of the non-native trees which affords protection from predation and disturbance. Herons and egrets utilize these trees for both roosting and nesting. In many southern California locations, herons and egrets roost at colony sites all year. Herons and egrets are normally shy and retiring birds that are sensitive to human disturbance. The fact that they have established roosting and nesting sites in areas of high human density and disturbance suggests that more suitable roosting and nesting areas are scarce.

The major determinate of heron and egret colony location is suitable wetland foraging habitat. An average Snowy Egret foraging trip is 1.7 miles from roosting and nesting sites to their main foraging area.² The trees within Greenbelt Park are located less than 400 feet from Huntington Harbor and about 2,000 feet from the Bolsa Chica Wetlands, both foraging areas for herons and egrets. The trees are also about a mile from the Seal Beach Wildlife Refuge, which also provides heron and egret foraging areas.

It is likely that a lack of suitable nesting and roosting areas in remaining local wetlands is the reason herons and egrets have established nests and are roosting in the trees at

¹ United States Fish & Wildlife Service: <https://www.fws.gov/wetlands/documents/Wetlands-Losses-in-the-United-States-1780s-to-1980s.pdf>

² Parson, K. C. and T. L. Master. 2000. Snowy Egret (*Egretta thula*). In *The Birds of North America*, No. 489 (A. Poole and F. Gill, Eds.). The Birds of North America, Inc., Philadelphia, PA

the subject site, as they are doing in non-native tree stands in other parts of coastal southern California such as Ventura Harbor, Marina del Rey, Long Beach, and other areas of Huntington Harbour. In addition to proximity to primary foraging habitat, predation and disturbance also influence heron and egret choice of roosting and nesting tree species and locations. Herons and egrets select nest sites difficult for mammalian predators to reach and in areas distant or removed from disturbance. In urban areas this translates into a preference for tall trees. Raccoons are one of the top heron and egret nest predators in Southern California.³ Tall trees are the main deterrent to raccoon predation. Dense foliage that provides camouflage and protection is also important in southern California as a deterrent to predation from birds such as American crows, *Corvus brachyrhynchus*, who prey on eggs and chicks.⁴ Both herons and egrets choose specific trees that are within a specific distance of primary foraging grounds and are safe from predation and disturbance. Herons do habituate to non-threatening repeated activities which explain the location of Southern California heronries in highly disturbed areas.

Heron and egret are integral components of fully functioning wetland ecosystems. They are top predators whose foraging activities maintain a balance in prey populations. Wetlands lacking such top predators may be subject to invertebrate, amphibian, reptile, rodent, and fish population explosions, eutrophication events, disease outbreaks, and any number of other unsustainable cycles.⁵ Southern California wetlands are experiencing pressure from a number of fronts including loss of native species, loss of area due to development, invasive species, and pollution. Herons and egrets are critical members of wetland ecosystems and their roosting and nesting colonies provide very important ecosystem functions. The trees on the subject site fit the criteria for a heron and egret roosting and nesting site, as evidenced by the presence of four active nests and many inactive nests ([Exhibit 3](#)). The trees are within the foraging range required by the heron and egret species utilizing the trees. The trees are tall, thus distancing the birds from predation and disturbance, and have dense foliage that offers camouflage and further protection from predation. Stands of trees such as those located on the subject property are an important natural resource and provide necessary ecological services for local southern California heron and egret populations, which in turn are critical to the healthy functioning of the nearby wetlands.

As stated above, four active black crowned night heron nests were identified in the project vicinity, in trees in Greenbelt Park. In order to minimize potential impacts to nesting sensitive birds, the proposed project includes tunneling, rather than open trenching in the areas nearest three of the four known active heron nests ([Exhibits 3 and 4](#)). Tunneling nearest the active nests, rather than trenching, will allow for decreased disturbance because construction machinery and activities will be more

³ Parson & Master (2000) op. cit.

⁴ Parson & Master (2000) op. cit.

⁵ P.A Keddy. Wetland Ecology: Principles and Conservation. Cambridge University Press: Cambridge, 2010.

distant from the nests than trenching would allow. As the proposed pipe depth will be approximately 14 to 16 feet below the surface, and both eucalyptus and Mexican fan palms have relatively shallow root systems, impacts to tree roots due to tunnelling are not expected.

As proposed, the project would occur in phases in order, from south to north. However, the applicant has indicated that phasing could occur out of order if necessary to avoid construction near active nests during the nesting season. The nesting season extends from February 1 to September 1. As proposed, the project will not occur during the peak use summer months (from Memorial Day Weekend through Labor Day). Between the nesting season and the summer season, this leaves the time period from the day after Labor Day until, but not including, February 1, as available construction time during the non-nesting season (a period of just under five months). Avoiding construction activities within 300 feet of active nests during the nesting season will minimize adverse impacts to nesting birds. Thus, conducting work near bird nests outside the nesting season is preferable. **Special Condition No. 1** requires that construction activities within 300 feet of active nests be conducted outside the nesting season, to the extent feasible. However, if it is not feasible to accomplish all construction activities within 300 feet of an active nest outside the nesting season, then construction within 300 feet of active nests may occur during the nesting season when construction noise levels are measured to be below sixty (60) decibels or at or below ambient noise levels, based on the determination of a qualified professional acoustician. Sound barriers may be used to bring the noise level down to below 60 decibels, in consultation with the acoustician and project biologist. If none of these options are possible, then all construction activities within 300 feet of an active nest must cease until the non-nesting season.

In addition, it is possible that nests in new locations may establish between commencement of construction and the time of the 8/7/2022 nesting bird survey. In order to assure that all active sensitive bird nests are protected during construction, **Special Condition No. 1** also requires that new nesting bird surveys are conducted prior to commencement of any construction that would occur in the nesting season. Implementation of the measures proposed by the applicant and imposed by Special Condition No. 1 will assure protection of nesting sensitive birds during proposed project construction.

Replacement Trees

Eight Mexican fan palms and two eucalyptus trees will be removed in conjunction with the proposed project. For each tree removed, two will be planted. No trees with active sensitive bird nests, including heron nests, will be removed. The applicant is proposing to replace the 10 non-native trees to be removed with 20 new trees. However, the type

and location of the replacement trees have not yet been identified.⁶ It is important that all of the replacement trees be suitable for supporting heron and egret nesting and roosting. In addition, it is important that some degree of tree success be assured into the future. The proposal to replace the lost trees at a 2:1 ratio is intended to contribute to the likely success of the replacement trees, and, to some extent, to address the interim period between when the trees are lost and the time the new trees reach a similar level of maturity and usefulness for nesting.

The applicant's biological consultant's suggested types of possible replacement trees include: Aleppo pine, Torrey pine, or Monterey pine. Of these, the Commission's staff ecologist recommends that five of the 20 replacement trees be Aleppo pines, which although not native, are known to be used by herons and egrets for nesting and roosting; and that the remainder of the replacement trees (15) be a mix of the listed native trees.

Special Condition No. 2 requires submittal of a Tree Replacement Plan (TRP). The TRP requires incorporation of the following measures: identification of the types of trees to be planted (consistent with the tree types described above), the box size of each tree, and the location where each tree will be planted. The TRP also requires monitoring of the trees by a certified arborist and that if any of the trees are not establishing well, that they be removed and replaced with one of the other types of replacement trees that are establishing well. The TRP requires that any necessary tree removal and replacement occur outside the nesting season. In addition, a report prepared by the project's certified arborist is required to be submitted to the Executive Director annually, with a final sign off report to be submitted at the end of year five after the planting. As conditioned to prepare and implement the Tree Replacement Plan, the likelihood that the replacement trees will adequately offset the loss of ten trees due to the project, is increased. With implementation of the Tree Replacement Plan, it is hoped that the level of sensitive bird nesting will remain, or even possibly increase.

C. Archeological and Tribal Cultural Resources

Section 30244 of the Coastal Act states: Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The California coastal zone has been home to native populations for thousands of years. Consistent with similar projects in the area, the Native American Heritage Commission (NAHC) provided a Sacred Lands File (SLF) Search to the applicant. The SLF search was completed with positive results for the presence of Native American

⁶ The project initially contemplated planting Red Alders, but Red Alders are not considered suitable for Southern California and are not suitable to support heron and egret nesting, so that type of tree is no longer being considered.

cultural resources in the vicinity of the Area of Potential Effects (APE). The NAHC requested that the Gabrieleño/Tongva San Gabriel Band of Mission Indians and the Juaneño Band of Mission Indians Acjachemen Nation be contacted for more information. The NAHC also recommended contacting additional Native American tribes. The applicant sent letters to the twelve Native American groups, including the two specifically identified by the NAHC as affected groups, on June 28, 2022, with follow-up letters sent on July 16, 2022. One response was received by the applicant on July 13, 2022 from the Gabrieliño Tongva Indians of California Tribal Council, represented by Christina Conley, Tribal Consultant and Administrator. A second response was received on July 18, 2022 from the Juaneño Band of Mission Indians, Acjachemen Nation, represented by Joyce Perry, Tribal Manager. The representatives of both tribal groups stressed the cultural sensitivity of the site and project vicinity, and emphasized the need for Native American monitoring of the proposed project.

In accordance with the Commission's Tribal Consultation procedures, staff notified all potentially affected tribal entities listed on the Native American Heritage Commission contact list via letter emailed on September 20, 2022 and included a narrative description of the proposed project and maps depicting the described site. That afternoon (9/20/2022), Anthony Morales, Chairman/Chief of the Gabrieleno/Tongva San Gabriel Band of Mission Indians spoke with Commission staff by telephone. Chief Morales conveyed the sensitivity of the area, stating he agrees with the Sacred Lands file search finding that the area is positive for the presence of Native American cultural resources within the vicinity of the Area of Potential Effects (APE). Chief Morales expressed that the project will need Native American involvement, likely monitoring. And on 10/19/2022 a response was received from Joyce Perry, Cultural Resource Director of the Juaneño Band of Mission Indians, Acjachemen Nation. On 10/26/2022 Coastal Commission staff held a Tribal Consultation with Ms. Perry. Ms. Perry also stressed the sensitivity of the site. Based on the project location's proximity to Bolsa Chica and the depth of the proposed trenching, Ms. Perry requested Native American and archaeological monitoring of the project during earth disturbing activities.

The Commission imposes **Special Condition 3**, which requires the applicant to submit a Cultural Resource Treatment and Monitoring Plan that must be reviewed and approved by the Executive Director prior to issuance of the permit. This plan will ensure that appropriate Native American monitors and archeological professionals are present during all ground-disturbing activities and that any resources found are treated in accordance with best practices, including best practices identified through consultation with the appropriate tribal government(s). As conditioned, the project can be found consistent with Section 30244 of the Coastal Act.

D. Public Access

Coastal Act Section 30210 mandates that maximum public access to the coast and recreational opportunities be provided consistent with private property rights. Additionally, Sections 30220 and 30221 of the Coastal Act protect coastal areas suited for water-oriented recreational activities and oceanfront land for recreational uses.

Section 30250 of the Coastal Act requires that new development not have significant adverse effects, individually or cumulatively, on coastal resources.

The project site is located one block from the beach to the southwest and as close as one block from Huntington Harbour to the northeast ([Exhibit 1](#)). In addition, the site is near other visitor amenities such as the beachfront public bike path that begins at the seaward end of Warner Avenue and extends to the south (downcoast of the project site), the Greenbelt Park that runs the length of Sunset Beach, and the shops and restaurants along Pacific Coast Highway in Sunset Beach. Greenbelt Park is located between North and South Pacific Avenues, extending the length of Sunset Beach from Anderson Street in the north to Warner Avenue in the south. It is a grassy area, with a continuous, meandering walkway along its entire length, benches, public restrooms, and a playground. Diagonal, head-in public parking is located on both sides of Greenbelt Park, with a larger public parking lot located between the end of Greenbelt Park and Warner Avenue. All of these parking spaces are available free to the public and located one block from the sandy public ocean beach.

The proposed project location is adjacent to and within Greenbelt Park. Free public parking spaces are located on both sides of Greenbelt Park, for the length of the park. The project site is located within or adjacent to (depending on the phase of the project) the public parking spaces on the north (inland) side of the park. These parking spaces support beach, bike path, and other visitor uses in the area. To reduce potential impacts to public access that might otherwise accrue from the proposed development, the applicant has proposed limiting the timeframe within which project construction will occur to outside the peak visitor use summer months. As proposed, no work will occur from Memorial Day Weekend through Labor Day. All public parking spaces will be available during the summer months.

The proposed project includes construction of a temporary walkway through the Greenbelt Park in areas where it would be impacted by construction. The temporary walkway will replace the permanent walkway during each phase of the proposed project that impacts the walkway. That way there will be no interruptions to continuous use of the popular path. Once the project is complete, the original walkway will again become available along its current, original alignment. Thus, the proposed project will not disrupt public use of the Greenbelt Park walkway.

In addition, the proposed project will be constructed in approximately sixteen phases so that only small segments of the 3,300 foot length of the project will be impacted at a time. The lengths of the phases generally coincide with a distance of approximately one block, with some variation in phase lengths ([Exhibit 5](#)). As proposed by the applicant, each phase must be completed and that area restored (parking spaces available, traffic detours restored, and the Greenbelt Park walkway path in place), before the next project phase may begin. As proposed, the project will include informational signage during project construction informing the public of the project's phasing and expected duration of the project.

As described above, the proposed project minimizes impacts to public access and visitor and recreational opportunities. Impacts to existing, public parking and to the Greenbelt Park walkway will be minimized, and no work will occur during peak use summer months. In order to assure these measures are carried out as proposed, the Commission imposes **Special Condition 4**, which requires these measures to be implemented.

E. Water Quality

Coastal Act Section 30230:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act Section 30231:

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

1. Project Dewatering

Groundwater is present at the project site at depths ranging from 6 to 9 feet. Proposed excavation depths will range from 14 to 16 feet. Thus, the project will require dewatering during construction. A Sampling and Analysis of Soil and Groundwater Samples Report for the proposed project was prepared by SCS Engineers, dated 7/28/2022. The Report found that the groundwater at the site met the requirements for discharge into local waters.

Dewatering wells are proposed to be installed ahead of the trenching operation, then removed once backfill of the trench per each phase is complete. Approximately 10 wells would be in operation at any one time, with well installation constantly being installed in front of the trenching and removed from the last completed project phase. The water will be directed to settling tanks (baffle tanks) to allow sediment to settle out prior to discharge. Ultimately the water will be discharged into four storm drain inlets on Pacific Coast Highway. The inlets are located on the west side of Pacific Coast Highway, and outlet into the harbor on the east side of PCH ([Exhibit 6](#)). There will be no more than two discharge points in use at any one time as the project phases move along.

The applicant has applied for a General De Minimus Waste Discharge Permit from the Regional Water Quality Control Board, Santa Ana Region ([Exhibit 7](#)). The RWQCB's action is pending. **Special Condition No. 5** requires that if any other agencies' authorization and/or permits are required, and if those require any changes to the project as approved by the Commission, then those changes must be submitted to the Executive Director to determine whether the changes would trigger the need for an amendment to this permit or a new coastal development permit.

2. Construction BMPs

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column.

The proposed project includes water quality Best Management Practices (BMPs) during construction such as placing a visqueen/plastic (minimum 10 mil thickness⁷) mat of sufficient size to completely contain any stockpiled materials with a minimum overlap of 3 feet from the stockpile, and a sandbag perimeter berm. The edge of the mat will be under the first level of sandbags and then wrapped around the sandbag, with a second level of sandbags placed on top to hold the mat in place. This is to be done at the end of each work day and when a potential for rain exists.

In addition, in order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition No. 6**, which outlines construction-related best management practices to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires, among other things, the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible. These measures will assure protection of coastal waters and marine resources as required by Coastal Act Sections 30230 and 30231.

F. Local Coastal Program (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit must be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted

⁷ As a measuring unit of thickness, 1 mil = 0.001 inches.

development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. Orange County's LCP for Sunset Beach was effectively certified in 1982 and updated in 1992. However, Sunset Beach was annexed into the City of Huntington Beach effective August 2011. This annexation terminated the County's LCP permitting jurisdiction for the area. The Sunset Beach annexation area has not yet been incorporated into the City of Huntington Beach certified LCP. Thus, there is not currently an effective certified LCP for Sunset Beach and, therefore, the Chapter 3 policies of the Coastal Act provide the standard of review for coastal development permits in the area. The previously certified Sunset Beach LCP and the City of Huntington Beach certified LCP, may be used as guidance where appropriate. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP for the area that is in conformity with the provisions of Chapter 3 of the Coastal Act.

G. California Environmental Quality Act (CEQA)

The Sunset Beach Sanitary District is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmental Quality Act (CEQA). The District determined that in accordance with CEQA, the project is Categorically Exempt pursuant to PRC 21080.21, CEQA Guidelines 15282(k). The State CEQA Guidelines Section 15282 provides a list of existing statutory exemptions. Section (k) states that pipeline projects that are less than one mile long are statutorily exempt from the requirements of CEQA, meaning no further action is needed to comply with CEQA. Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As conditioned, the proposed project has been found consistent with the biological resources, water quality and marine resources, cultural resources, and public access and recreation policies of the Coastal Act.

Therefore, as conditioned, the Commission finds that there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and consistent with the requirements of the Coastal Act and CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application No. 5-22-0667 file.

Biological Resources Technical Memorandum, LSA, 9/2/2022.

Sampling and Analysis of Soil and Groundwater Samples Report, SCS Engineers, 7/28/2022.