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# W12a

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Staff: A. Leavitt-A  
Staff Report: 11/30/2023  
Hearing Date: 12/13/2023

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 1-23-0353

**Applicant:** Manila Community Services District (MCSD)

**Location:** At various locations, including Peninsula Drive, Young Lane, Mill Street, Victor Boulevard, the Manila Community Center, and the Manila Community Park within the unincorporated community of Manila, Humboldt County

**Project Description:** Maintain and enhance an existing drainage system, including clearing out and creating new bioswales, replacing and adding new culverts, and installing valley gutters and rain gardens to reduce chronic stormwater flooding

**Staff Recommendation:** Approval with Conditions

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## SUMMARY OF STAFF RECOMMENDATION

The Manila Community Services District (MCSD) proposes the Manila Flood Reduction and Drainage Enhancement Project in the community of Manila, a “severely disadvantaged” unincorporated urban community (population 762) on the northern end of the Samoa Peninsula of Humboldt Bay in Humboldt County. The community is a low-lying area adjacent to the bay and naturally has poor drainage characteristics and high groundwater levels in addition to tidal fluctuations near the Humboldt Bay shoreline. Historic construction of roads, railroads, and land filling in the project area has inhibited

the natural drainage paths and likely compounded present day flooding issues. The existing drainage system within the community of Manila includes a series of ditches and culverts that have accumulated with vegetation and siltation blockages, and many of the existing culverts have failed or are undersized. As a result, the community is subject to chronic flooding of local roadways that in some areas persists for several days.

As proposed, the project would address chronic stormwater flooding and drainage problems by dredging ingrown vegetation from wetland ditches and restoring the conveyance capacity of the drainage channels to original depths. New bioswales also would be graded in some areas to connect with and enhance the capacity of the existing drainage system. In addition, undersized and failing culverts and associated flap gates would be replaced, and several new culverts, drainpipes, and valley gutters would be installed to connect drainage areas. Finally, rain gardens would replace impervious surfaces at the Manila Community Center and at various locations along roadsides. While the project footprint would be limited to only the necessary locations where flooding of roadways and residences occur, as opposed to clearing and grading to restore the entirety of drainage channels throughout the community, approximately 28,270 square feet (0.649 acres) of impacts to palustrine emergent, palustrine scrub-shrub, and estuarine wetlands are anticipated to result from the proposed drainage system maintenance and enhancement activities. Vegetation within the project area is primarily comprised of thickets of Hooker's willow (*Salix hookeriana*), red alder (*Alnus rubra*), and wax myrtle (*Morella californica*) interspersed with residential and commercial development and landscaped parks.

The major Coastal Act issue raised by the project is protection of coastal wetlands as required by Coastal Act section 30233. Staff believes the proposed dredging and filling within coastal wetlands for drainage maintenance and enhancement is allowable as an incidental public service purpose pursuant to Coastal Act section 30233(a)(4), there are no feasible less environmentally damaging alternatives, and feasible mitigation measures are proposed to minimize adverse environmental effects.

The applicant has submitted a draft Wetland Habitat Mitigation and Monitoring Plan (WHMMP) describing proposed post-construction wetland revegetation efforts for anticipated impact areas and additional wetland habitat creation as mitigation for anticipated permanent impacts. Specifically, 17,932 square feet (0.412 acre) of wetland creation and substantial restoration within and immediately adjacent to the project area is proposed. To address certain inadequacies of the plan, including but not limited to, improved success criteria and provisions for ensuring additional mitigation as needed to adequately compensate for all wetland impacts, staff recommends Special Condition 10 (Mitigation for Impacts to Wetland Habitat). This condition requires submittal of a final revised WHMMP that substantially conforms with the submitted draft WHMMP but which includes improved success criteria, stronger monitoring and reporting requirements, and sufficient appropriate mitigation to ensure revegetation and wetland creation success.

Staff believes that the proposed best management practices and mitigation measures to protect rare plants, sensitive wildlife, water quality, and other coastal resources, as modified by various special conditions will avoid, minimize, and mitigate potential project impacts consistent with the Coastal Act. Staff therefore recommends approval of CDP application number 1-23-0353, as conditioned. The motion to implement this recommendation can be found on page 5.

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[Exhibit 3 – Draft Project Plans](#)

[Exhibit 4 – Project Description](#)

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[Exhibit 6 – Proposed Mitigation Measures](#)

[Exhibit 7 – Draft Wetland Habitat Mitigation and Monitoring Plan](#)

[Exhibit 8 – Site Photos](#)

## I. Motion and Resolution

### Motion

I move that the Commission **approve** Coastal Development Permit Application No. 1-23-0353 pursuant to the staff recommendation.

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

### Resolution

The Commission hereby **approves** the Coastal Development Permit for the proposed development 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

This permit is granted subject to the following 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 permittee 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 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. Special Conditions

1. **Final Construction Plans.** NOT LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF ANY INITIAL DEVELOPMENT AUTHORIZED BY CDP 1-23-0353, the Permittee shall submit for the review and written approval of the Executive Director, final site and construction plans that are consistent with the Project Description (Exhibit 4) and all special conditions of this CDP and substantially conform with the plans submitted to the Commission in the permit application, except as follows:
  - A. The final plans shall reflect the changes proposed during the application review process, after submittal of the initial permit application and draft plans, including:
    - i The removal of certain project elements shown in the figures in Appendix A of the draft Wetland Habitat Mitigation and Monitoring Plan submitted as part of the permit application (Exhibit 7).
    - ii The removal of new residential driveway development within wetlands.
  - B. The final plans shall include, at a minimum the following required components:
    - i Final plans for all project elements, which shall clearly identify sensitive habitat to be avoided.
    - ii Final specific locations of all construction areas, staging areas, and construction access corridors in site plan view.
    - iii Final construction schedule.
    - iv A narrative cover letter demonstrating that the final plans are consistent with all relevant terms of this Special Condition and any other relevant term or condition of this CDP and how the requirements of this CDP will be communicated to any contractor(s) implementing work under the plans.
  - C. The Permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans, including significant delays in construction, shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission approved amendment to this CDP unless the Executive Director determines that no amendment is legally required.

2. **Construction Responsibilities Required to Protect Coastal Resources.** The Permittee shall undertake development in compliance with all conditions of CDP 1-23-0353 and with all proposed Environmental Protections Actions and Mitigation Measures in the Mitigation Monitoring and Reporting Program adopted by the Permittee under CEQA and attached here as Exhibit 6, except as supplemented or modified herein, including, but not limited to, the following:
- A. **Construction Timing.** The Permittee shall adhere to the seasonal work windows specified in Special Conditions 4-8 below and the following additional timing limitations:
    - i Soil disturbing work shall be minimized to the extent feasible during the rainy season.
    - ii All development near the Humboldt Bay shoreline related to culverts and flap gates shall occur during low tide cycles only, when no water is present.
  - B. **Environmental Awareness Training.** PRIOR TO COMMENCEMENT OF ANY INITIAL DEVELOPMENT, including major vegetation removal, and any ongoing maintenance activities with the potential for significant impacts to coastal resources, a qualified biologist shall provide a pre-construction meeting with all construction personnel (contractors and subcontractors), consisting of a briefing on environmental permit conditions and requirements relative to the proposed project, including but not limited to work windows, construction site management within the project area, locations of environmentally sensitive areas, and how to identify and report sensitive species within the project area. This shall be repeated if there is worker turnover within the construction season, each new worker shall be advised on best practices. This information shall also be posted at the job site to ensure the importance of these measures are recognized.
  - C. **Flagging of Environmentally Sensitive Areas.** PRIOR TO COMMENCEMENT OF ANY INITIAL DEVELOPMENT, including major vegetation removal, and any ongoing maintenance activities with the potential for significant impacts to coastal resources, a qualified biologist shall identify with flagging, orange construction barrier fencing, or other similar temporary means, the boundaries of wetlands and other environmentally sensitive areas within and adjacent to the project area, including any areas to be avoided as identified by the surveys required by Special Conditions 4-8 below, except areas where project impacts have been specifically authorized by this CDP. Construction equipment staging and laydown areas and all other project activities and authorized development shall avoid encroachment into delineated environmentally sensitive areas except as specifically authorized by this CDP. Demarcated areas shall be inspected throughout construction to ensure that they are visible for construction personnel. Any fencing that is used shall be properly installed specialized wildlife (frog) exclusionary fencing

to protect sensitive species of frogs from entering work zones during construction. If the flagging/fencing is removed, damaged, or otherwise compromised during the construction period, construction activities shall cease until the flagging/fencing is repaired or replaced.

- D. **Biological Monitoring.** A biological monitor shall be present onsite during initial equipment mobilization, site preparation, vegetation removal, dewatering, ground disturbance, concrete pours, final construction demobilization, and all other actions that may reasonably result in adverse impacts to sensitive species and water quality, to advise the contractor on and to ensure compliance with the required sensitive resource protection measures of this permit. The monitor shall be a qualified biologist with the ability to recognize sensitive species and habitats in the project vicinity. The monitor shall have the authority to stop work activities in any area if required to avoid adverse impacts to sensitive resources. The monitor shall maintain records of activities, observations, and communications with the Permittee and/or construction personnel. The monitoring logs shall be retained and made available for agency review upon request and shall be submitted to the Executive Director following completion of construction.
- E. **Water Pollution Prevention.** PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT, including major vegetation removal, the Permittee shall ensure all temporary erosion, runoff, and sediment control BMPs and other water quality protection measures are in place in accordance with the final water quality protection measures required to be prepared and implemented by Special Condition 3. All water quality protection measures shall be maintained in accordance with their respective BMP fact sheet.
- F. **Soil Protection.** To the extent feasible, vegetation within proposed construction accessways shall be cut back close to the ground with roots left undisturbed. Soils within temporarily disturbed areas shall be protected from compaction through the use of construction mats as applicable and tilling of native soils shall be avoided where feasible. Any soil protection materials or barriers shall be completely removed upon completion of construction. Topsoil shall not be stockpiled or redistributed from soils where invasive plant species are abundant.
- G. **Vegetation Removal.** Vegetation cutting and removal activities shall be minimized to the extent feasible and done with the use of hand tools (including chainsaws) where possible.
- H. **Revegetation.** Consistent with the final approved Wetland Habitat Mitigation and Monitoring Plan required by Special Condition 10, any temporarily disturbed areas shall be appropriately stabilized and revegetated following construction utilizing only regionally appropriate species within the same watershed or locally grown or collected native plant seeds and shall not include any species listed as problematic and/or invasive by the California



Native Plant Society (CNPS) or listed by the California Invasive Plant Council (Cal-IPC) or the State of California.

- I. **Invasive Species Prevention.** All construction equipment shall be cleaned prior to entering the work site consistent with California Department of Fish and Wildlife (CDFW) protocols to minimize the potential for the transport of non-native vegetation seeds and plant material or invasive species. To prevent the spread of invasive plant species in disturbed soil after construction, only native species shall be used in reseeding/revegetation efforts and straw, straw bales, seed, mulch, or other material used for erosion control or revegetation shall be free of noxious weed seed and propagules.
  - J. **Plastic Netting Prohibition.** To minimize wildlife entanglement and plastic debris pollution, the use of temporary rolled erosion and sediment control products with plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers used in fiber rolls, erosion control blankets, and mulch control netting) is prohibited. Any erosion-control associated netting shall be made of natural fibers and constructed in a loose-weave design with movable joints between the horizontal and vertical twines.
  - K. **Trash/Debris.** During construction, all trash and debris shall be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat and coastal waters during construction activities. Any debris inadvertently discharged into coastal waters or surrounding habitats shall be recovered immediately and disposed of consistent with the requirements of this CDP. When operations are completed, any excess material or debris shall be promptly removed from the work area and disposed of in an appropriate upland location outside of the coastal zone or at an approved disposal facility pursuant to the final Debris Disposal Plan required by Special Condition 13.
3. **Water Quality Protection Measures.** PRIOR TO COMMENCEMENT OF ANY INITIAL DEVELOPMENT AUTHORIZED BY CDP 1-23-0353, the Permittee shall submit, for the review and written approval of the Executive Director, a suite of appropriate final measures to protect water quality during all development activities including project staging, stockpiling, construction, vegetation removal, grading, and ongoing maintenance activities, as applicable. The water quality protection measures may be implemented under an approved final Stormwater Pollution Prevention Plan (SWPPP).
- A. The final water quality protection measures shall include, but not be limited to, the following required components:
    - i Measures to Minimize Erosion and Sediment Discharge During Project Activities: During initial construction and maintenance activities and post-construction during ongoing maintenance activities, erosion and the

discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate BMPs, including, but not limited to:

- a.** minimizing land disturbance (e.g., clearing, grading, and cut-and-fill) and phasing grading activities to avoid increased erosion and sedimentation;
- b.** erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) as needed to prevent soil from being transported by water or wind; and
- c.** sediment control BMPs (such as silt fences, fiber rolls, inlet protection, sand bag barriers, or straw bale barriers) as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.

ii Measures to Minimize Discharge of Pollutants During Project Activities:

The discharge of other pollutants (such as chemicals, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters during initial construction and maintenance activities and post-construction during ongoing maintenance shall be minimized through the use of appropriate BMPs, including, but not limited to:

- a.** the use of materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction materials and debris;
- b.** prior to any concrete pouring, the surrounding areas shall be isolated from water. Concrete shall be allowed to cure for a minimum of fourteen (14) calendar days prior to removal of BMPs. Concrete wash-out facilities shall be located in designated staging area(s) and stormwater BMPs shall be implemented to prevent discharges; and
- c.** fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall take place at a designated area located at least one hundred (100) feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area may be fueled and maintained in

other areas of the site, provided that procedures are implemented to fully contain any potential spills. Vehicles and equipment used within the project area shall be checked for leaks at the beginning of each workday. Hazardous materials management equipment shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials cleanup/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up.

- iii Schedule. A schedule for the management of all water quality protection measures and BMPs (including installation and removal; training for construction personnel; and ongoing operation, inspection, maintenance, and monitoring and reporting, as applicable).

B. The Permittee shall undertake development in accordance with the approved final measures. Any proposed changes to the approved final measures shall be reported to the Executive Director. No changes to the approved final measures shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. **Protection of Special Status Plants.** PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT IN SALT MARSH AREAS with the potential to impact special status plants, including vegetation removal and ongoing maintenance activities as applicable, the Permittee shall complete the following protection and mitigation measures:

- A. Conduct Pre-development Floristic Surveys: The Permittee shall conduct pre-development surveys for Lyngbye's sedge (*Carex lyngbyei*), Humboldt Bay owl's-clover (*Castilleja ambigua* var. *humboldtiensis*), Point Reyes salty bird's-beak (*Chloropyron maritimum* ssp. *palustre*), western sand-spurrey (*Spergularia canadensis* var. *occidentalis*), and any other special status plant species (California Rare Plant Rank 1A, 1B, or 2) with the potential to occur in the area. Surveys shall be conducted in the appropriate season for optimal species-specific detection (i.e., when plants are flowering) and in the same construction season for the authorized development activities. Survey methods shall comply with CNPS/CDFW rare plant survey protocols and shall be performed by a qualified field botanist.
- B. Schedule Project Activities to Avoid Blooming Periods: Authorized development in the vicinity of identified special status plant populations including, but not limited to, the species listed above, shall be scheduled for times of the year occurring after the special status plants have dropped their seed (i.e., late summer or fall) to the maximum extent feasible to avoid impacts to plant blooming and seed dispersal of salt marsh flora.

- C. Flag Areas for Avoidance: If pre-development surveys identify special status plants in the area of work, the plants shall be mapped and flagged for avoidance during development activities to the maximum extent feasible.
  - D. Other Mitigation Measures to Minimize Adverse Effects: If special status plant populations are detected where development will have unavoidable impacts (e.g., at the direct outlet of the drainage culvert proposed for maintenance), plant seed shall be salvaged prior to any further activity in the subject area by a qualified botanist, redistributed outside of the area of potential impacts during the appropriate season and in suitable habitat, and be clearly documented.
  - E. Report Submittal: The Permittee shall submit for the Executive Director's review and approval the results of the pre-development surveys, including a map that depicts the location(s) of any special status plants identified, the associated survey details (e.g., dates, methods, personnel and their qualifications), the planned construction schedule, and measures proposed to protect any identified special status plants.
5. **Protection of Nesting Birds.** The Permittee shall undertake development in compliance with the proposed measures included in Exhibit 6 to protect raptors and special status species of nesting birds, as supplemented or modified herein:
- A. If any authorized development, including major vegetation removal, is undertaken during the bird nesting season (March 15 to August 15), **NOT MORE THAN 72 HOURS PRIOR TO COMMENCEMENT OF DEVELOPMENT** with the potential to impact nesting birds, a qualified biologist shall survey for active bird nests in and adjacent to the construction area according to current CDFW recommended survey protocol(s). The minimum survey area shall include the trees and other vegetation within the development footprint and a minimum 500-foot buffer area around the development footprint. Surveys shall be repeated any time development activities have ceased for more than 72 hours unless the work is occurring outside of the nesting season.
  - B. If any active bird nests for raptors or special status bird species are detected, development (including major vegetation removal) in the buffer zone shall be delayed until after the young have fledged, as determined by additional surveys conducted by a qualified biologist. Buffers shall be 500 feet for nesting raptors and 300 feet for other nesting bird species.
  - C. The Permittee shall submit to the Executive Director the results of the surveys required in subpart A above prior to commencement of development, including a narrative that describes the survey details (e.g., dates, methods, personnel and their qualifications), results, measures proposed to avoid disturbance of nesting birds, and a map that depicts the location(s) of any active nests identified and the associated buffer zones.

6. **Protection of Roosting Bats.** The Permittee shall undertake development in compliance with the proposed measures included in Exhibit 6 to protect maternal colonies of roosting bats and/or special status individual roosting bats, as supplemented or modified herein:
  - A. To the extent feasible, removal of confirmed or presumed-occupied bat roost habitat shall occur only when bats are volant (i.e., able to leave roosts), between March 1 and April 15 or September 1 and October 15, when evening temps rise above 45 degrees Fahrenheit, and when no rainfall greater than ½ inch has occurred in the last 24 hours.
  - B. If trees or structures cannot be removed during the volant period, i.e., project activities occur during the bat maternity season which generally occur April 16th through August 30th, **NOT MORE THAN 72 HOURS PRIOR TO COMMENCEMENT OF DEVELOPMENT** with the potential to impact roosting bats, a qualified biologist shall conduct surveys in any areas where potential maternity roosts may be disturbed/removed. Surveys shall include a visual inspection of the impact area and any large trees/snags with cavities or loose bark or crevices within infrastructure.
  - C. If surveys identify maternal colonies of roosting bats and/or special status individual roosting bats in the project area, the maternal roosting colonies and/or special status individual roosting bats shall be mapped and flagged for avoidance during construction activities, and a construction-free buffer zone of 100 feet shall be established.
  - D. The Permittee shall submit to the Executive Director the results of the surveys required in subpart B above prior to commencement of development, including a narrative that describes the survey details (e.g., dates, methods, personnel and their qualifications, etc.), results, measures proposed to avoid disturbance of roosting bats, and a map that depicts the location(s) of any bat roosts identified and the associated buffer zones.
7. **Protection of Northern Red-legged Frog.** The Permittee shall undertake development in compliance with the proposed measures included in Exhibit 6 to protect Northern Red-legged Frogs (NRLF), as supplemented or modified herein:
  - A. Development within areas of standing water shall be limited to the period of the year between July 1 and October 30 to avoid disturbance to breeding frogs.
  - B. **NOT MORE THAN 48 HOURS PRIOR TO THE COMMENCEMENT OF DEVELOPMENT** with the potential to impact frogs, a qualified biologist shall perform a pre-construction survey for NRLF (adults, subadults, tadpoles, or egg masses) according to current CDFW recommended survey protocols. Survey areas shall include the project footprint and within 50 feet of suitable habitat.

- C. The biologist shall relocate any specimens that occur within the work-impact zone to nearby suitable habitat. The biologist shall also be present during all project activities with the potential to impact frogs. If a NRLF is observed in an active construction zone, the contractor shall halt construction activities in the area and the frog shall be moved to a safe location in similar habitat outside of the immediate project area.
  - D. The Permittee shall submit to the Executive Director the results of the surveys required in subpart B above prior to commencement of development, including a narrative that describes the survey details (e.g., dates, methods, personnel and their qualifications, etc.), results, and measures proposed to avoid disturbance of NRLF.
  - E. To prevent the inadvertent entrapment of NRLF, all excavated, steep-walled holes or trenches more than one foot deep shall be covered at the close of each working day by plywood or similar materials. If it is not feasible to cover an excavation, one or more escape ramps constructed of earthen fill or wooden planks shall be installed.
8. **Protection of Western Bumble Bees.** PRIOR TO THE COMMENCEMENT OF ANY GROUND DISTURBING AND/OR MAJOR VEGETATION REMOVAL DEVELOPMENT AUTHORIZED BY CDP 1-23-0353, the Permittee shall coordinate with the California Department of Fish and Wildlife (CDFW) to complete pre-construction surveys for Western Bumble Bee. If surveys conducted by CDFW identify Western Bumble Bee, the Permittee shall undertake development in areas of suitable Western Bumble Bee habitat (areas near floral resources, leaf litter, old mammal burrows, downed wood, and similar habitats) in compliance with the proposed measures included in Exhibit 6 to protect Western Bumble Bee, as supplemented or modified herein:
- A. The Permittee shall notify CDFW at least two weeks in advance of ground disturbing activities to support CDFW-led early season scouting and any concurrent targeted surveys led by CDFW staff.
  - B. To the extent feasible, vegetation in areas with suitable Western Bumble Bee habitat shall be cleared during late winter months (January 1 through February 28) and ground-disturbing activities in areas with suitable Western Bumble Bee habitat shall be completed prior to May.
  - C. If ground-disturbing activities in areas with suitable habitat for the Western Bumble Bee must occur after May 1, a qualified biologist shall scout the area for Western Bumble Bee IMMEDIATELY PRIOR TO INITIAL GROUND DISTURBANCE within the subject area, with particular attention to floral resources and nest sites (non-capture photography surveys if feasible, based on the Rusty Patched Bumble Bee survey guidelines, species will not be physically handled).

- D. The Permittee shall immediately notify CDFW of any Western Bumble Bee sightings by the Permittee, their contractor, and their qualified biologist. If a colony is identified, disturbance near the colony shall be paused until suitable avoidance measures are determined in coordination with CDFW. If an individual is identified, work shall be paused until the individual leaves the area of disturbance.
  - E. The Permittee shall submit to the Executive Director the results of the surveys, scouting, and biological monitoring required herein within 30 days of completion of construction, including a narrative that describes the survey details (e.g., dates, methods, personnel and their qualifications, etc.), results, and measures utilized to avoid disturbance of Western Bumble Bee.
9. **Protection of Archaeological Resources.** The Permittee shall undertake development in compliance with the proposed measures included in Exhibit 6 to protect archaeological resources, including tribal cultural resources, as supplemented or modified herein:
- A. AT LEAST ONE MONTH PRIOR TO THE COMMENCEMENT OF ANY INITIAL GROUND-DISTURBING DEVELOPMENT ACTIVITIES, the Permittee shall (i) notify in writing, email, and/or phone calls, as necessary the representatives of Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list; (ii) invite all tribal representatives on that list to be present and to monitor ground-disturbing activities; and (iii) arrange for any invited tribal representative that requests to monitor and/or a qualified archaeological resource monitor to be present to observe project activities with the potential to impact archaeological and/or tribal cultural resources. Evidence of written notification shall be made available to the Executive Director upon request.
  - B. The Permittee shall retain a qualified archaeological resource monitor who is approved by the relevant tribes per subsection (A) to monitor ground disturbing activities related to this project in areas the tribes deem culturally sensitive, including but not limited to:
    - i Any ground disturbance within ~100 feet of a recorded site;
    - ii Excavation meeting or exceeding 1 foot (below historical flow line) within existing drainage channels;
    - iii In locations where new culverts will be placed and excavation meets or exceeds 1 foot below existing culvert flow line;
    - iv In locations where grading is occurring to construct new drainage features regardless of the excavation depth; and

- v Any excavation where the construction inspector is not present to oversee that the excavation does not exceed the lines or grades on the final design construction plans.
- C. If an area of archaeological and/or tribal cultural resources is discovered during project activities, all construction shall cease and shall not recommence except as provided in subsection (E) hereof, and the Permittee shall retain a qualified archaeologist and/or tribal cultural resource specialist to analyze the significance of the find in consultation with the Native American Tribes listed on the NAHC list. The archaeologist and/or tribal cultural resource specialist shall immediately notify the tribes on the NAHC list. An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area that includes a reasonable buffer zone recommended by the monitor(s). Construction may continue outside of the exclusion zone area.
- D. Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeological monitor shall notify the County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. An “exclusion zone” may be established around the discovery area. If the County Coroner determines that the human remains are those of a Native American, the coroner shall contact the NAHC within 24 hours, pursuant to Health and Safety Code Section 7050.5. The NAHC shall deem the Native American most likely descendant (MLD) to be invited to participate in the identification process pursuant to Public Resources Code Section 5097.98. The landowner/Permittee shall comply with the requirements of Section 5097.98 and work with the MLD person(s) to preserve the remains in place, move the remains elsewhere onsite, relinquish the remains to the descendants for treatment, or determine other culturally appropriate treatment. Within five (5) calendar days of notification to NAHC, the Permittee/ landowner shall notify the Coastal Commission’s Executive Director of the discovery of human remains and identify any changes to the proposed development or mitigation measures that may be needed related to the inadvertent discovery. The Executive Director shall maintain confidentiality regarding the presence of human remains on the project site. The Executive Director shall determine whether the identified changes to the authorized development are de minimis in nature and scope.
- E. If the Permittee seeks to recommence project activities within an exclusion zone following discovery of archaeological or tribal cultural resources (excluding the discovery of human remains, which shall follow Section 5097.98 as noted in (D) above), the Permittee shall submit an Archaeological Protection Plan for the review and written approval of the Executive Director. The Archaeological Protection Plan shall be developed in consultation with the Native American Tribes listed on the NAHC list for the review and written approval of the Executive Director. If the Executive Director approves the plan



and determines that the plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, project activities may recommence after this determination is made by the Executive Director in writing. If the Executive Director approves the plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

#### 10. **Mitigation for Impacts to Wetland Habitat.**

**A. Final Wetland Habitat Mitigation and Monitoring Plan (WHMMP).** PRIOR TO ISSUANCE OF CDP 1-23-0353, the Applicant shall submit for the review and approval of the Executive Director a final revised WHMMP for revegetation of temporarily impacted areas at the project site and additional wetland mitigation to compensate for permanent wetland impacts, as defined in subpart C below. The final WHMMP shall substantially conform to the WHMMP titled "Wetland Habitat Mitigation and Monitoring Plan: Rev 2." dated November 6, 2023 (Exhibit 7), except as supplemented or modified herein. The final WHMMP shall include the following:

- i Revised goals and objectives supported by clear rationale and modified to also include prevention of new establishment of species listed by the California Invasive Plant Council in project-disturbed areas and control of the spread of existing infestations through their removal during the minimum 5-year monitoring and maintenance period. Where feasible, invasive species shall be removed by hand;
- ii final wetland mitigation plans and maps consistent with the definitions and ratios in subsections C and D below that show the boundaries of all final mitigation areas;
- iii pre-construction site photos and quantitative surveys documenting existing native and invasive vegetation cover vegetation community compositions, and diversity at each revegetation and mitigation site;
- iv final success criteria consistent with subpart E below;
- v identification of reference sites to be used in the performance assessment for the wetland mitigation;
- vi monitoring and reporting plans that include (i) plans for monitoring the revegetation and wetland creation areas for a minimum of five years with no less than 3 years without interventions beyond weeding, (ii) provisions for the submittal of annual and Year 5 monitoring reports to the Executive Director consistent with subparts F and G below; and (iii) a schedule for annual monitoring activities and report submittal dates; and

- vii provisions for submittal to the Executive Director, within 90 days of completion of construction, a final “as-built” onsite habitat impact report verifying that the extent and nature of actual construction/ maintenance impacts does not exceed the projected impacts listed in the final WHMMP. Impacts shall be defined per subpart C below. If the extent and nature of actual construction impacts does exceed the project impacts, additional mitigation shall be required pursuant to subpart B below.

- B. Additional Mitigation for Unanticipated Wetland Impacts.** If the Executive Director determines the actual project impacts calculated in the as-built report required under subpart 10-A-vii above substantially differ from anticipated impact amounts projected in the approved final WHMMP, the Permittee shall submit within 90 days of the Executive Director’s determination a revised or supplemental WHMMP for the review and approval of the Executive Director proposing additional mitigation consistent with the mitigation ratios in subpart D below for the additional habitat impacts. In addition, if the Executive Director determines that revegetation efforts have significantly failed to restore temporarily disturbed areas to comparable conditions within one (1) year, as documented by the first annual monitoring report required by subsection F below, the Permittee shall submit within 90 days of the Executive Director’s determination a revised or supplemental WHMMP and/or supplemental mitigation plan for the review and approval of the Executive Director proposing additional mitigation consistent with the mitigation ratios in subpart D below for the additional temporal loss of habitat function. Any revised or supplemental plan(s) shall be processed as an amendment(s) to this CDP, unless the Executive Director determines that no amendment is legally required.
- C. Impact Definitions.** “Temporary impacts” are those that do not involve significant ground disturbance and are restored within 12 months of initial development activity disturbance. Any impacts that do not meet these parameters shall be considered “permanent impacts.”
- D. Mitigation Ratios.** Wetland habitat impacts shall be mitigated consistent with the following ratios (mitigation area: impact area), where these base ratios assume mitigation as either habitat creation or substantial restoration. The final plan may alternatively propose habitat enhancement or preservation at appropriate increased ratios, as determined by the Executive Director. No net loss of wetland acreage shall be ensured by a minimum 1:1 in-kind habitat creation or substantial restoration and the remaining obligation may be satisfied by any of the mitigation strategies as described above. The creation of new drainage infrastructure (e.g., new bioswales and expanded channel areas) shall not be considered compensatory mitigation for permanent wetland impacts.

- i All new development (e.g., new drainage ditches, larger culvert/headwall resulting in permanent fill, etc.): 4:1
  - ii Where infrastructure is existing but occupied by woody vegetation: 3:1
  - iii Where infrastructure is existing but occupied by herbaceous vegetation: 2:1
  - iv Where infrastructure is existing but unvegetated, such as only involving duff from canopies or adjacent areas: 1:1
  - v Where the impacted vegetation within the wetland is invasive, if it is removed/treated and no further action is taken: 2:1
  - vi Where the impacted vegetation within the wetland is invasive, if it is removed/treated and proactively revegetated with natives that would inhibit reestablishment of non-natives going forward: 1:1
- E. Success Criteria and Performance Assessment for Wetland Mitigation**  
Final success criteria shall include, at a minimum: (a) native species diversity (e.g., Shannon's H' Index); (b) community composition; (c) percent cover by strata; (d) invasive species thresholds of no more than 5% total for all species ranked by Cal-IPC except for non-native annual grasses, for all areas permanently impacted during construction activities; and (e) for the wetland creation area, the wetland delineation will be based on vegetation and hydrology using the routine methods of the Army Corps of Engineers. All criteria shall be supported by a clear scientific rationale from either relevant literature or an approved reference site. Assessment methods for performance shall be specified and supported by a technical rationale, including statistical tests and criteria for quantitative analysis. Evaluation of final performance shall occur no sooner than five years post-implementation or three years without remedial or maintenance interventions apart from weeding, whichever is later.
- F. Annual Monitoring and Reporting for Wetland Mitigation.** The final WHMMP shall include provisions for monitoring, maintenance, and remediation activities. The Permittee shall submit monitoring reports annually to the Executive Director, beginning the first year after completion of initial development activities and consistent with the monitoring schedule in the final approved WHMMP. Each report shall document the condition of the revegetation and wetland creation areas, including invasive species prevalence, with photographs taken from the same fixed points in the same directions; a "performance evaluation" section where monitoring results are used to evaluate the status of the revegetation/wetland creation and invasive species management efforts in relation to the interim and final success criteria in the final approved WHMMP; and recommendations for work for the

subsequent year needed to improve revegetation and wetland creation success.

- G. Year 5 Monitoring Report for Wetland Mitigation.** A monitoring report for Year 5 shall be submitted for the review and approval of the Executive Director at the conclusion of all revegetation and wetland creation efforts consistent with the monitoring schedule in the final approved WHMMP. The Year 5 monitoring report shall be prepared by a qualified restoration specialist and must evaluate whether the revegetated and wetland creation areas conform to the goals, objectives, and success criteria set forth in the approved final WHMMP. The Year 5 monitoring report shall summarize prior reports and provide a timeline of the overall progress and success and include sufficient detail to evaluate comprehensive mitigation compliance with the mitigation program and specified goals and success criteria set forth in the approved final WHMMP.
- H. Provision for Remedial Action.** If the Year 5 monitoring report indicates that the revegetation and mitigation efforts have been unsuccessful, in part or in whole, based on the approved success criteria, the Permittee shall submit within 90 days a revised or supplemental WHMMP for the review and approval of the Executive Director to compensate for those portions of the original program which did not meet the approved success criteria. The revised or supplemental WHMMP shall be prepared by a qualified restoration specialist and shall specify measures to remediate those portions of the original approved WHMMP that have failed or have not been implemented in conformance with the original approved WHMMP. The revised or supplemental plan shall be processed as an amendment to this CDP, unless the Executive Director determines that no amendment is legally required.
- I. Consistency.** The Permittee shall undertake development in accordance with the approved final WHMMP. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission approved amendment to this CDP unless the Executive Director determines that no amendment is legally required.
- 11. Length of Development Authorization.** Ongoing drainage maintenance development authorized by CDP 1-23-0353 that is not exempt under Coastal Act section 30610(d) and title 14 California Code of Regulations section 13252 may be undertaken for a period of five (5) years from the date of Commission approval (until December 13, 2028). Two requests for two additional five-year periods of development authorization may be accepted, reviewed, and approved by the Executive Director, for a maximum total of fifteen (15) years of drainage maintenance authorization (until December 13, 2038), provided that the requests would not substantively alter the project description and/or require modifications of conditions due to new information or other changed circumstances. The requests for each additional five-year period of drainage maintenance authorization shall be

made prior to December 13, 2028 and December 13, 2033, respectively. If the requests for additional five-year authorization periods would substantively alter the project description and/or require modifications of conditions due to new information or other changed circumstances, an amendment to this permit will be necessary. All maintenance activities that constitute non-exempt development proposed after the authorization expiration date, if no additional five-year period of authorization has been granted by the Executive Director or amendment has been obtained, shall require a new coastal development permit.

## 12. **Authorized Ongoing Maintenance Development**

A. PRIOR TO ISSUANCE OF CDP 1-23-0353, the Applicant shall submit for the review and approval of the Executive Director a final revised Drainage System Maintenance Plan for ongoing maintenance-related development to preserve the approved design and configuration of the drainage facilities in which development activities are specifically authorized herein. The final Drainage System Maintenance Plan shall substantially conform to the draft maintenance plan titled "Flood Reduction and Drainage Improvement Project Maintenance Plan" (submitted on 11/6/2023) (Exhibit 5), except as supplemented or modified herein. The final plan shall include the following:

- i Provisions for submittal of Annual Maintenance Plans for the review and approval of the Executive Director at least two weeks prior to commencement of annual maintenance activities in any year in which maintenance operations are conducted pursuant to this CDP authorization that notify the Executive Director of the year's upcoming proposed maintenance work and verify that the annual maintenance work will be carried out consistent with the final revised Drainage System Maintenance Plan approved pursuant to this condition and with all terms and conditions of CDP 1-23-0353. Each Annual Maintenance Plan shall include, at a minimum, the following:
  - a. A site plan depicting the location(s) of proposed annual maintenance activities, including applicable Assessor's Parcel Numbers and property owner names for all proposed work sites and maintenance areas;
  - b. a description of that year's proposed annual maintenance activities, including but not limited to the extent of proposed vegetation and sediment removal/grading;
  - c. a description of the applicable BMPs and mitigation measures which shall be implemented during that year's proposed maintenance activities, consistent with subpart ii below;
  - d. if applicable, a debris disposal plan consistent with Special Condition 13; and

- e. a schedule for proposed annual maintenance activities.
  - ii Provisions for undertaking ongoing maintenance activities in compliance with all proposed Environmental Protections Actions and Mitigation Measures in the Mitigation Monitoring and Reporting Program adopted by the Permittee under CEQA and attached here as Exhibit 6 and all proposed measures included in the draft maintenance plan to protect coastal resources, as supplemented or modified by Special Conditions 2-8, above, as applicable.
  - iii Specification that authorized maintenance activities shall occur only on those lands and in those locations authorized for development in the final plans required per Special Condition 1. Expansion of the project area beyond the specified lands shall require an amendment to this coastal development permit.
  - iv Provisions for obtaining other agency permits as applicable for any future maintenance and/or repair activities.
- B. The Permittee shall undertake development in accordance with the approved final Drainage System Maintenance Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final measures shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

13. **Debris Disposal Plan.** NOT LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT AUTHORIZED BY CDP 1-23-0353, the Permittee shall submit, for the review and approval of the Executive Director, a plan for the disposal of excess construction/maintenance debris and materials including but not limited to excavated sediment, vegetated spoils, construction debris, and waste material.

- A. The plan shall include, at a minimum, the following:
- i A description of the types and amounts of anticipated excavated sediment, vegetated spoils, debris, and other waste material expected, which shall identify any hazardous materials;
  - ii a site plan showing all proposed locations for the temporary stockpiling of construction debris, soils and vegetative spoils, excess materials, any other debris and waste associated with the authorized work in relation to wetland habitat areas, project features, and property lines;
  - iii a description of additional measures specifying special handling and removal measures for vegetated spoils and topsoil harboring invasive plant species to ensure that the material is not reintroduced into sensitive wetland areas or their buffers via piling or composting; and

- iv a schedule for removal of stockpiled materials from the construction site and identification of all authorized debris disposal sites that will be used for lawful disposal.
  - B. The Permittee shall undertake development in accordance with the approved final Debris Disposal Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission approved amendment to this CDP unless the Executive Director determines that no amendment is legally required.
14. **Evidence of Legal Ability of Applicant to Undertake Development and Comply with Conditions of Approval.**
- A. PRIOR TO ISSUANCE OF CDP 1-23-0353, the Applicant shall submit for the review and approval of the Executive Director evidence that clearly demonstrates the legal right, interest, or entitlement to carry out the conditions of approval of CDP 1-23-0353, including but not limited to evidence the Applicant has acquired all necessary temporary construction easement(s) for properties on which the proposed development would be located.
  - B. PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT within County of Humboldt, the Great Redwood Trail Authority, and the California Department of Fish and Wildlife rights-of-way, the Permittee shall submit for the review and approval of the Executive Director, evidence that the needed encroachment permit for that right-of-way has been obtained from the right-of-way holder, or evidence that no such encroachment permit is required. The encroachment permit or exemption shall provide evidence of the ability of the Permittee to develop within the applicable right-of-way as conditioned herein. The Permittee shall inform the Executive Director of any changes to the project required by the County of Humboldt, the Great Redwood Trail Authority, and the California Department of Fish and Wildlife. Such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this CDP, unless the Executive Director determines that no amendment is legally required.
15. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the Permittee acknowledges and agrees (i) that the project area may be subject to hazards, including but not limited to storms, flooding, and erosion; (ii) to assume the risks to the Permittee and the properties that are the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and

fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

## IV. Findings and Declarations

### A. Project Description

The Manila Community Services District proposes the Manila Flood Reduction and Drainage Enhancement Project. The purpose of the project is to reduce chronic flooding and enhance drainage throughout the community of Manila, which has been impacted by chronic flooding hazards for decades. Winter rains and shallow groundwater overwhelm the existing drainage system resulting in widespread flooding of roadways, residences, and public spaces. Culverts are undersized and failing, and drainage ditches lack appropriate conveyance capacity due to debris obstructions and sediment accumulation. Flooding in Manila has become more severe over time as connectivity between the limited existing facilities has diminished and undersized roadside ditches and failing culverts constrain hydraulic capacity.

To improve drainage in the community of Manila, the project includes the following general components:

- **Bioswales:** Debris blockages, sediment aggradation, and woody vegetation within existing bioswale flow paths would be removed along with minor grading to restore historical geometry. New bioswales would be graded to connect existing drainage paths. Banks of existing and new bioswales would be seeded and planted with native species. Up to 13 bioswales totaling approximately 6,000 feet in length would be maintained, enhanced, and/or created under the proposed scope of work.
- **Culvert replacement:** Existing culverts that are undersized and or failing would be replaced with new, larger capacity culverts. Where existing culverts have flap gates (which prevent higher tides from flowing into the existing storm conveyance system), flap gates would be replaced along with the culvert. Up to 14 culverts would be replaced with new culverts under the proposed scope of work (up to 3 culverts would be replaced with bioswales).
- **New culverts and storm drain pipes:** New culverts and storm drain pipes would be installed in select locations to connect drainage areas. Culverts and storm drain pipes would use either reinforced concrete pipe (RCP) or high-density polyethylene (HDPE) pipe. Up to 5 new culverts and pipes would be installed under the proposed scope of work.
- **Valley gutters:** Valley gutters, a low-cost alternative to installing new culverts, would be installed in select locations to connect bioswales at residential driveway crossings. Valley gutters would be designed so they are easily cleaned by adjacent property owners and do not impair vehicle access. The installed valley



gutters would be fitted with a concrete driveway apron to limit debris blockages and protect aesthetic value. Up to 8 valley gutters and driveway aprons would be installed under the proposed scope of work.

- Rain gardens: Rain gardens would replace an impervious area at the Manila Community Center and select points along Peninsula Drive where conveyance to other areas is limited. Rain gardens are landscaped depressions that function to treat on-site stormwater discharge from impermeable surfaces such as roofs, sidewalks, roadways, and parking lots. Up to 5 rain gardens would be installed under the proposed scope of work.

For draft project layouts, draft project plans, and a more detailed project description, see Exhibits 2, 3, and 4, respectively.

### Ongoing Annual Maintenance

The project has been designed to minimize long-term operational and repair costs; however ongoing maintenance would be needed on occasion depending on the results of annual inspections. The applicant has submitted a draft Maintenance Plan (Exhibit 5), which includes inspection sheets that list maintenance need indicators and corresponding corrective actions (e.g., regular clearing of debris from culvert inlets, occasional removal of sediment, and annual maintenance of vegetation) as well as a description of proposed BMPs that would be followed during maintenance activities.

### Construction Methods and Timing

Proposed initial maintenance and enhancement activities (excluding ongoing maintenance) would occur within a single construction season, likely commencing in May 2024 and concluding by October 2024, although it may extend into 2025 if necessary. If feasible, vegetation clearing would occur prior to March 15, 2024, to avoid the nesting bird season, while the remainder of the maintenance and enhancement work would occur during the dry season.

Project construction would include the following activities:

- Mobilization of equipment and materials to the site including setting up staging areas.
- Clearing, grubbing, and vegetation removal within bioswales and other work areas.
- Grading and excavation throughout the project area to remove existing pavement and create appropriate grades and dimensions for the new bioswales, culverts, and rain gardens.
- Trenching to install replacement and new culverts and storm drain pipes.

- Repaving existing public roadways following culvert replacement and installations, where located within the roadway.
- Demobilization of equipment and materials from the site including cleaning up and restoring disturbed areas.

Equipment required for construction could include concrete trucks, concrete pump trucks, all terrain forklifts, snooper trucks, compressors, tracked excavators, backhoes, graders, dump trucks, skid steers, bobcats, and pick-up trucks. Jackhammers, saws, grinders, or similar pieces of equipment may be necessary to support pavement removal. Water would be used for dust control, compaction, and re-vegetation. As discussed in Section F (Marine Resources and Water Quality), dewatering operations may also be necessary.

Stockpiling and staging would occur within existing uplands and disturbed areas of the project area, including roadway shoulders and paved areas or graveled areas at the Manila Community Center and possibly at the Manila Community Park or the MCSD Office.

## **B. Project Location and Environmental Setting**

The project is located in Manila, a “severely disadvantaged”<sup>1</sup> unincorporated urban community (population 762) on the northern end of the Samoa Peninsula of Humboldt Bay, along Highway 255 in Humboldt County (Exhibit 1). Manila is approximately 3.5 miles directly north (across Humboldt Bay) of Eureka and approximately five miles southwest of Arcata. Specifically, work would occur in areas around Young Lane, Darin Road, Ward Street, Mill Road, Lupine Drive, Park Street, North Victor Boulevard, Peninsula Drive, and other local streets in Manila. Work also is planned at the Manila Community Center and the Manila Community Park. The land use designations within the project area as designated under the Humboldt County certified LCP are Residential Low Density (RL), Public Recreation (PR), and Public Facility (PF).

The Samoa Peninsula is 10 miles long and largely comprised of vegetated and non-vegetated dunes. Distributed within the dune ridges are hollows that bolster wetland habitat. The drainage pathways within the project vicinity tend to flow in an easterly direction, from the dunes along the western edge of the Manila community to Humboldt Bay. The project area is low-lying and therefore naturally has poor drainage characteristics and high groundwater levels, in addition to tidal fluctuations near the Humboldt Bay shoreline. However, historic construction of roads, railroads, and land filling in the project area has inhibited the natural drainage paths and likely compounded present day flooding issues. The existing drainage courses within the community of Manila include vegetated ditches and culverts, largely adjacent to or crossing roads and railroad tracks. As discussed in the project description above, many of the existing drainage channels have experienced accumulation of sediment and debris over time

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<sup>1</sup> The community of Manila has a median household income less than 60% of the statewide average and therefore qualifies as a Severely Disadvantaged Community (Disadvantaged Communities Nomenclature Within the State of California: Findings and Conclusions, Department of Water Resources 2022).

and many culverts have failed or are undersized. These blockages severely restrict the hydraulic conveyance capacity of the community drainage system and result in persistent flooding of local roadways and residences. In some areas, runoff accumulates in low-lying areas from multiple directions and persists for several days.

Vegetation within the project area is primarily comprised of forests and thickets of Hooker's willow (*Salix hookeriana*), red alder (*Alnus rubra*), and wax myrtle (*Morella californica*) interspersed with residential and commercial development and landscaped parks. The plant communities in the project area are somewhat degraded by non-native species and fragmented by development. Nevertheless, due to the proximity to the bay and open space natural areas, the area green belts support a wide array of native plants and animals, including several special-status species. The area wetlands are a combination of naturally occurring, created for drainage conveyance (e.g., roadside ditches), and incidentally created due to the lack of proper drainage. The Humboldt Bay shoreline within the project area consists of marine wetlands, including salt marsh and mudflats.

Site photos are provided as Exhibit 8.

### **C. Standard of Review**

Portions of the proposed project will occur within the Coastal Commission's retained Coastal Development Permit (CDP) jurisdiction and portions are located within Humboldt County's Local Coastal Program (LCP) jurisdiction. Under Coastal Act Section 30601.3, when a project requires a CDP from both a local government with a certified LCP and the Commission, the Commission may process a consolidated CDP application for the proposed development when the applicant, the local government, and the Commission's Executive Director agree to process the CDP as a consolidated CDP.

The Humboldt County Board of Supervisors adopted a resolution (Resolution No. 07-24) delegating the Planning and Building Department Director the authority to request consolidation of CDP applications that span both the County and State permit jurisdictions. In this case, MCSD requested CDP consolidation in a letter to the County dated March 10, 2023, and the County subsequently requested CDP consolidation in a letter to the Executive Director dated March 10, 2023. In response to these requests, the Commission's Executive Director agreed to process and act upon a consolidated CDP application for the subject project via a letter dated March 23, 2023.

The standard of review for a consolidated CDP application is the Chapter 3 policies of the Coastal Act; the certified LCP may be used as guidance.

### **D. Other Agency Approvals and Property Rights**

North Coast Regional Water Quality Control Board (NCRWQCB)

1-23-0353 (Manila CSD)

The project requires a Clean Water Act Section 401 Water Quality Certification from the NCRWQCB. This approval was granted on August 10, 2023 (WDID Permit No. 1B23067WNHU).

Humboldt Bay Harbor, Recreation, and Conservation District (HBHRCD)

The project requires a development permit from the HBHRCD. This approval was granted on September 14, 2023 (District Permit No. 2023-02).

U.S. Army Corps of Engineers (USACE)

The project qualifies for a Clean Water Act Section 404 Nationwide Permit. This qualification was verified via a letter dated November 29, 2023 (USACE File No. SPN-2023-00123).

Property Rights

Although some of the project will occur on land owned by MCSD, the project requires acquisition of encroachment permits from the County of Humboldt, the Great Redwood Trail Authority, and the California Department of Fish and Wildlife. In addition, the project requires Drainage Easements over seven parcels, from six different private property owners. MCSD has not yet submitted copies of the drainage easements and encroachment permits necessary to implement the project; therefore, **Special Condition 14 (Evidence of Legal Ability of Applicant to Undertake Development and Comply with Conditions of Approval)** requires that copies of these documents, or other sufficient evidence of legal rights, interests, or other entitlements to use the properties for the proposed development as conditioned, be submitted prior to development on the subject properties.

**E. Wetlands**

Coastal Act Section 30233 states, in relevant part, as follows:

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

[...]

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

[...]

(b) *Dredging and spoils shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation...*

(c) *In addition to the other provision of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...*

Section 30108.2 of the Coastal Act defines “fill” as “earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.” Additionally, the Commission has long considered grading, excavating, and other ground-disturbing activities in coastal wetlands, riparian areas and estuaries to be a form of dredging or fill.

### Wetland Descriptions and Anticipated Impacts

A Wetland Delineation, Botanical and Sensitive Natural Community Assessment Memorandum, and Wildlife Habitat Assessment Memorandum were prepared to assess baseline environmental conditions within the project area. These studies evaluate the potential for any special status plants, wildlife species, Environmentally Sensitive Habitat Areas (ESHAs), sensitive natural communities (SNCs), or aquatic resources to occur. The Biological Study Area (BSA) encompasses a 0.25-mile radius around the project area.

The wetland delineations, which were completed on July 21-22 and August 23, 2022, determined the extent of wetlands and other waters within the BSA based on hydrophytic vegetation, hydric soils, and wetland hydrology using methods and indicators outlined in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys and Coast Region. One-, two-, and three-parameter wetlands were documented.

The wetland delineation identified five different types of wetlands within the BSA:

- One-parameter wetlands, primarily characterized by a predominance of woody hydrophytic vegetation, are scattered throughout the project area, around ditches, railroad tracks, and drainage gullies. The hydrophytic vegetation in these wetlands is generally characterized by Hooker’s willow, wax myrtle, and red alder with various hydrophytic herbs in the understory and blackberry vines (*Rubus spp.*) in the vine layer. This is the largest type of wetland identified within the project area.
- Palustrine emergent wetland ditches are present alongside Peninsula Drive and the railroad tracks that run northeast/southwest through the community of Manila in a disjunct area.
- Palustrine emergent non-ditch wetlands are freshwater wetlands not associated with roadside drainages and are located east of Victor Boulevard and Young Lane and adjacent to the marine wetlands on the shore of Humboldt Bay.

1-23-0353 (Manila CSD)

- The forested gully between the Manila Community Park and Mill Street is classified as a freshwater forested shrub wetland from Mill Street to the marine wetland on the shore of Humboldt Bay.
- The portions of the project area on the shore of Humboldt Bay below the High Tide Line of 9.3 feet (NAVD 88) are classified as marine wetlands (tidal salt marsh and mudflat).

Wetland maps are provided within Appendix A of the draft Wetland Habitat Mitigation and Monitoring Plan (Exhibit 7).

The following proposed project construction activities would involve diking, dredging, and/or filling impacts within the above-described coastal wetlands and therefore must be found consistent with section 30233:

- Vegetation removal, including mowing and trimming, within and around the drainage ditches, culverts, and other project areas to restore drainage channel capacity and for construction access.
- Minor grading at culvert replacement and additional sites for the installation of drain inlets and pipes, at select existing bioswales to restore historical or stable geometry, and at locations where new bioswales would be created.
- Small amounts of fill including structural fill at culvert, headwall, storm drain pipe, and drain inlet sites.

The following tables summarize the area and type of anticipated impacts to wetlands. More detailed site-specific information is provided in Exhibit 7.

Table 1: Wetland Impact Area per Wetland Type

<b>Wetland Type</b>	<b>Impact Area in square feet (and acres)</b>
One-parameter Wetland Dominated by Woody Vegetation	9,781 (0.225)
Three-parameter Forested Gully Wetland	6,099 (0.140)
Three-parameter Palustrine Emergent Ditches	8,428 (0.193)
Three-parameter Palustrine Emergent Wetlands (Non-Ditches)	3,093 (0.071)
Three-parameter Marine Wetlands (Salt Marsh and Mudflat)	870 (0.020)

<b>Total</b>	<b>~28,270 (0.649)</b>
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Table 2: Wetland Impact Area per Impact Type

<b>Impact Type</b>	<b>Impact Area in square feet (and acres)</b>
New development (e.g., new drainage ditch, larger culvert/headwall resulting in permanent fill)	1,525 (0.035)
Grading and significant vegetation removal around existing drainage infrastructure	18,905 (0.434)
Limited vegetation removal (no ground disturbance)	7,798 (0.179)
<b>Total</b>	<b>~28,270 (0.649)</b>

### 1. Allowable Uses

The first test set forth above is that any proposed diking, dredging, or filling in wetlands must be for an allowable purpose as specified under section 30233 of the Coastal Act.

As the project is being undertaken by a public agency to serve the public, and the purpose of the project is to conduct necessary maintenance and enhancement of an existing public drainage system within the community of Manila without expanding the area served by the drainage system, the Commission finds that the proposed dredging and filling within coastal wetlands is for an incidental public service purpose, an allowable use pursuant to Coastal Act section 30233(a)(4).

### 2. Alternatives Analysis

For projects involving diking, dredging, and filling of wetlands, the Commission must ensure that the approved project has no feasible less environmentally damaging alternative, consistent with section 30233 of the Coastal Act. Coastal Act section 30108 defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." In this case, alternatives considered include: (1) the "no project" alternative; (2) alternative project designs; and (3) alternative construction methods.

- *The "No Project" Alternative:* The "no project" alternative means that no maintenance or enhancements to the existing drainage system would occur. As described in Section A (Project Description) this project is needed because the

community drainage system in Manila has lost hydraulic capacity over time, and as a result, the community has been increasingly impacted by flooding during rain events. Winter rains and shallow ground water overwhelm the existing drainage system resulting in widespread flooding of roadways, residences, and public spaces. Multiple factors have contributed to the reduced hydraulic capacity of the community drainage system over time including (1) many existing culverts are undersized and/or failing, and (2) drainage ditches lack appropriate conveyance capacity due to debris obstructions, dense vegetation, and sediment accumulation. As a result, flooding in Manila has become more severe over time as connectivity between the limited existing facilities has diminished and undersized roadside ditches and failing culverts constrain hydraulic capacity. In the absence of drainage system maintenance and enhancement, the flooding issues affecting the community of Manila would continue and likely worsen. Thus, this alternative would not satisfy the purpose of and need for the project.

- *Alternative Project Designs:* Alternative designs are available for the community drainage system. For example, an alternative drainage system design using artificial (e.g., concrete, rip rap) drainage channels rather than primarily bioswales would achieve the project purpose. However, this alternative would have greater permanent wetland impacts and would also increase impervious surfaces, resulting in decreased drainage capacity overall and associated indirect environmental impacts. Existing drainage channels could be more significantly widened and additional channels created beyond those proposed. Again, such designs would result in greater wetland impacts.

Changing the drainage system alignment within the vicinity of the existing system would likely result in substantially more wetland impacts as much of the project area consists of wetlands due to the low-lying topography of Manila, and therefore recreating the system on an alternative alignment would likely still take place in wetlands. Other components of the drainage system would likely have to be realigned/recreated as well to maintain system connectivity, generally increasing the scale of the project and its potential environmental impacts. Further, realigning the drainage system would likely require additional encroachments onto other properties not owned by MCSD and therefore may not be feasible.

- *Alternative Construction Methods:* As described in Section A (Project Description), the proposed alternative involves the use of heavy equipment, which will require vegetation clearing for access. Heavy equipment is needed for certain project components such as minor grading of select bioswales to restore historical capacity. However, access pathways have been designed to minimize impacts and hand tools are proposed to be used wherever feasible.

During the course of the application review period, MCSD considered potential ways to reduce wetland impacts and still achieve the project purpose and ultimately removed some smaller components of the project that were determined not to be critical (e.g., vegetation removal and grading within certain existing wetland drainage ditches). As a



result, the project footprint is limited to only the necessary locations where flooding or roadways and residences occur as opposed to clearing and grading to restore the entirety of drainage channels throughout the community. Therefore, based on the above alternatives analysis, the Commission finds that the proposed project minimizes disturbance to wetlands and, with the feasible mitigation measures discussed below, is the least environmentally damaging feasible alternative available, consistent with section 30233(a).

### 3. Feasible Mitigation Measures

Section 30233 further requires that feasible mitigation measures be provided to minimize adverse environmental effects of dredging and filling within wetlands. Depending on the manner in which the proposed project is completed, the proposed dredging and filling within coastal wetland habitat could have significant adverse environmental effects on the quality and functional capacity of the wetland habitat. However, as discussed in the following sections, various best management practices (BMPs) and mitigation measures will be implemented to minimize the adverse environmental effects of dredging and filling activities.

#### ***(a) Measures to Mitigate for Permanent Wetland Habitat Impacts***

As described above, the proposed diking, dredging, and filling project activities are anticipated to result in approximately 28,270 square feet (0.649 acres) of impacts to wetlands. In past actions by the Commission, the Commission has treated habitat impacts which will be restored to comparable conditions within one year and do not include significant ground disturbance to be “temporary” impacts that do not require compensatory mitigation. If restoration requires more than a year or involves significant ground disturbance, the Commission generally has treated such impacts as “permanent” for mitigation purposes and has imposed as greater than 1 to 1 ratio (size of required mitigation area to size of area impacted) due both to the loss of habitat function during the time required for habitat regeneration and the uncertainty of success associated with restoring or enhancing wetland habitat functions and values in wetland mitigation areas (which typically are offsite/outside of the project area footprint). In this case, approximately 7,797 square feet (0.179 acres) of anticipated wetland impacts are impacts resulting from maintenance of existing drainage system features that are expected to be restored to comparable conditions within one year due to their more limited scale and avoidance of ground disturbance. In contrast, approximately 18,905 square feet (0.434 acres) of impacts resulting from maintenance of existing drainage system features are expected to take more than a year to be restored as they involve grading and/or more significant vegetation removal. Moreover, approximately 1,525 square feet (0.035 acres) of impacts will result from new development, either permanent fill within existing wetlands that will convert these areas to non-wetland conditions (e.g., larger culvert/headwall resulting in permanent fill) or other new drainage system features that will significantly alter existing intact wetlands (e.g., dredging a new drainage channel within existing intact wetlands). Therefore, in sum, the Commission finds a total of approximately 20,430 square feet (0.469 acres) of anticipated wetland impacts should be treated as permanent for mitigation purposes.

Temporarily disturbed wetlands would be seeded and mulched after completion of initial maintenance and enhancement activities, and, as stated above, these areas are expected to revegetate to comparable conditions within one year. To ensure this, the Commission attaches **Special Condition 10 (Mitigation for Impacts to Wetland Habitat)**, which requires in part that the first annual mitigation monitoring report demonstrate these areas have been restored within one year. If not, additional mitigation may be required to compensate for the unanticipated temporal loss of habitat function.

For areas where impacts are considered “permanent” as described above, there are several factors to consider in determining the appropriate mitigation ratio. Impacts associated with new development (e.g., newly dredged drainage ditches within existing intact coastal wetlands, larger culvert/headwall resulting in permanent fill/wetland conversion) warrant a higher ratio (i.e., 4:1, mitigation area: impact area) to fully compensate for the permanent conversion or loss of habitat that will never be restored to comparable pre-disturbance conditions. On the other hand, a lower wetland mitigation ratio may be adequate to compensate for impacts resulting from maintenance of existing drainage features (e.g., dredging of existing drainage channels), because although there will be significant vegetation removal and/or ground disturbance that will disrupt habitat values in a manner that will take more than a year to restore the area’s wetland conditions and habitat values, these impacts are occurring within existing infrastructure that has been subject to disturbance in the past, and much of these disturbance areas will be restored to comparable pre-project conditions (e.g., one-time impacts from construction access adjacent to wetland ditches during initial maintenance and enhancement project activities).

MCSD has submitted a draft Wetland Habitat Mitigation and Monitoring Plan (WHMMP, Exhibit 7), describing proposed post-construction wetland revegetation efforts for anticipated impacted areas and additional wetland habitat creation as mitigation for anticipated permanent impacts, including proposed monitoring procedures and success criteria. Specifically, MCSD proposes 17,932 square feet (0.412 acre) of wetland creation within and immediately adjacent to the project area through the following activities:

- Expand existing freshwater forested shrub wetland drainage channel by 400 square feet.
- Excavate 256 square feet of one-parameter wetland to create a new bioswale three-parameter wetland.
- Excavate 775 square feet of uplands to create a new bioswale three-parameter wetland.
- Create a total of 16,038 square feet of one-parameter wetlands by planting willows, wax myrtles, or other FACW species in uplands in the Manila Community Park.

- Create 463 square feet of marine wetland on the shore of Humboldt Bay by excavating an area of upland non-native grasses, exposing the area to tidal influence, and removing invasive Spartina grass (*Spartina densiflora*) around the mitigation area.

MCSD proposes to monitor the revegetation and mitigation areas annually until success criteria have been met.

Although the majority of anticipated wetland impact areas are expected to be restored to wetlands following project implementation and proposed site revegetation efforts, the proposed mitigation plan is not adequate to fully compensate for anticipated permanent impacts, including sustained temporal losses of habitat structure and function. For example, not all of the proposed success criteria are appropriate metrics from an ecological perspective, and some of the proposed thresholds for success are overly subjective and/or too low (e.g., percentage cover of wetland vegetation). Furthermore, the Commission has not historically credited new infrastructure as mitigation (e.g., areas of new and expanded drainage channel and bioswales), because the primary purpose of the infrastructure is for drainage rather than habitat restoration. Given this, the existing plan does not provide sufficient mitigation for “permanent” wetland impacts as described above. In addition, more thorough monitoring and reporting procedures are needed to ensure that the wetland revegetation and mitigation areas will be self-sustaining going forward.

Therefore, to ensure that wetlands impacted by dredging and filling activities are fully revegetated and appropriately mitigated, **Special Condition 10 (Mitigation for Impacts to Wetland Habitat)** requires submittal of a final Wetland Habitat Mitigation and Monitoring Plan that substantially conforms with the draft WHMMP submitted as part of the permit application (Exhibit 7), with certain modifications. These modifications include clarified goals and objectives supported by clearer rationales, alternative additional mitigation (e.g., additional riparian restoration planting in the area) to compensate for the proposed crediting of ~1,431 square feet of new/expanded drainage system infrastructure, improved success criteria, and stronger monitoring and reporting requirements, which collectively will better ensure appropriate mitigation and revegetation and wetland creation success, including management of invasive species which have the potential to spread or be introduced to the site during project activities.

Special Condition 10 also requires submittal of a final “as-built” habitat impact report after completion of construction verifying that the extent and nature of actual construction impacts does not exceed the projected impacts in the final WHMMP.

***(b) Measures to Protect Wetlands During Ongoing Maintenance***

As described in Section A (Project Description), ongoing maintenance of the drainage system is proposed. The applicant has submitted a draft Maintenance Plan (Exhibit 5), which includes inspection sheets that list maintenance need indicators and corresponding corrective actions (e.g., regular clearing of debris from culvert inlets, occasional removal of sediment, and annual maintenance of vegetation) as well as a

description of proposed BMPs that would be followed during maintenance activities. Some of these ongoing maintenance activities may constitute non-exempt development. Therefore, to ensure that the habitat in these areas will not be significantly re-disturbed when annual maintenance activities occur, **Special Condition 12 (Authorized Ongoing Maintenance Development)** requires submittal of a final Drainage System Maintenance Plan for ongoing maintenance-related development to preserve the approved design and configuration of the drainage facilities with limitations on the extent of authorized maintenance activities and requirements for the implementation of certain BMPs during these activities to protect wetland habitat as well as other biological resources and water quality.

In addition, **Special Condition 11 (Length of Development Authorization)** limits the length of development authorization under this CDP, including ongoing maintenance activities, to a period of five years from the date of Commission approval. However, two requests for two additional five-year periods of development authorization may be accepted, reviewed, and approved by the Executive Director for a maximum total of ten (15) years of development authorization, provided that the requests would not substantively alter the project description and/or require modifications of conditions due to new information or technology or other changed circumstances. This condition ensures that the Commission will have the opportunity to reconsider the project activities at a later date, to ensure ongoing protection of wetland resources within the permit authorization timeframe.

In conclusion, the Commission finds that the proposed wetland mitigation, as modified by the special conditions discussed above, is feasible and sufficient to compensate for the anticipated impacts to wetland habitat as a result of the proposed project.

### ***(c) Mitigation Measures to Protect Special Status Plants***

Based on occurrence records and habitat availability, four special status plants have a high probability of occurring in the BSA: Lyngbye's sedge (*Carex lyngbyei*), Humboldt Bay owl's-clover (*Castilleja ambigua var. humboldtiensis*), Point Reyes salty bird's-beak (*Chloropyron maritimum ssp. palustre*), and western sand-spurrey (*Spergularia canadensis var. occidentalis*). Twenty-four additional special status plant species have a low likelihood of occurring within the project area. Three seasonally appropriate floristic surveys for special status plants were conducted in the project area during the spring and summer of 2022 and Lyngbye's sedge, Point Reyes salty bird's-beak, and Humboldt Bay owl's clover were all observed near the project area.

Therefore, to protect special status plants with the potential to be impacted by the project, MCSD proposes the following mitigation measures:

- The locations of any special status plant populations mapped during previously completed surveys will be clearly identified in the plans and specifications for the project.

- If special status plant populations are detected where construction would have unavoidable impacts, seed will be salvaged prior to construction and redistributed following construction during the appropriate season. On-site seed collection from the impacted species will be prioritized. If on-site seed collection is infeasible due to blooming period conflicts with the planned construction season, offsite seed collection will occur from a suitable nearby area.

To ensure that the special status plants are protected as proposed, **Special Condition 4 (Protection of Special Status Plants)** reinforces MCSD's proposed measures with certain modifications to add clarity and specificity. In addition, the general construction responsibilities and water quality protection measures required by Special Conditions 2 and 3 will further protect any special status plant species that may occur within the project area.

***(d) Mitigation Measures to Protect Special-Status Wildlife***

Depending on the manner in which the proposed project is undertaken, construction activities within wetland habitats at the project site could have significant impacts on wildlife, including special status amphibians, nesting birds, and roosting bats. The potential impacts to and measures to protect these sensitive species are discussed in the following paragraphs.

*Special Status Frog Species*

No special status amphibian or reptile species were observed in the project area during reconnaissance level surveys on May 24, 2022; however, focused herpetological surveys were not conducted for the project. Suitable habitat for Northern Red-legged Frogs (*Rana aurora*) is present in the project area and the species has a moderate potential to be present during construction. If present in the project area during construction activities, Northern Red-legged Frogs could be injured or killed via crushing, entrapment, burying, and/or be potentially displaced from habitat.

Therefore, to protect special status frogs that have the potential to be impacted by the project, MCSD proposes the following mitigation measures:

- MCSD proposes to retain a qualified biologist to perform a pre-construction survey for the Northern Red-legged Frog within seven days prior to commencement of ground disturbance. The surveyed areas will include the project footprint and within 50 feet of suitable habitat.
- The biologist will relocate any specimens that occur within the work-impact zone to nearby suitable habitat. If a Northern Red-legged Frog is observed in an active construction zone, the contractor will halt construction activities in the area and the frog will be moved to a safe location in similar habitat outside of the construction zone.

- Construction within areas of standing water will be limited to the period of the year between July 1 and October 30 to avoid disturbance to breeding frogs.
- After July 1, a qualified biologist will inspect any work areas containing surface water (not including puddles resulting from rainfall) to ensure tadpoles or metamorphosing frogs are not present. If they are present, the qualified biologist will implement a rescue and relocation operation to move any tadpoles or metamorphosing frogs to a safe location in nearby suitable habitat.

To ensure that the special status frogs are protected as proposed, **Special Condition 7 (Protection of Northern Red-legged Frog)** reinforces MCSD's proposed measures with certain modifications to add clarity and specificity. In addition, the general construction responsibilities and water quality protection measures required by Special Conditions 2 and 3 will further protect any special status frogs that may occur within the project area.

### *Nesting Birds*

A reconnaissance-level wildlife site visit was conducted on May 24, 2022, and one special status bird Great Egret (*Ardea alba*) was observed flying over the study area. Four special status birds have a moderate or high potential for nesting within the BSA: Great Egret (*Ardea alba*), Great Blue Heron (*Ardea herodias*), Northern Harrier (*Circus hudsonius*), and White-tailed Kite (*Elanus leucurus*).

MCSD proposes the following mitigation measures to protect special status nesting birds that have the potential to be impacted by the project:

- Ground disturbance and vegetation clearing will be conducted during the fall and/or winter months and outside of the avian nesting season (which is generally assumed to occur between March 15 – August 15), where feasible, to avoid any direct effects to special-status and protected birds.
- If ground disturbance and vegetation clearing cannot avoid the nesting season, a qualified biologist will conduct pre-construction surveys for nesting birds.
- If active nests are detected within the construction footprint, or within 500 feet of construction activities, the biologist will flag a buffer around each nest and construction activities will avoid nest sites until the biologist determines that the young have fledged, or nesting activity has ceased. If nests are documented outside of the construction (disturbance) footprint, but within 500 feet of the construction area, buffers will be implemented as needed. In general, the buffer size for common species will be determined on a case-by case basis in consultation with the CDFW and, if applicable, with USFWS. Buffer sizes will take into account factors such as (1) noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity; (2) distance and amount of vegetation

or other screening between the construction site and the nest; and (3) sensitivity of individual nesting species and behaviors of the nesting birds.

To ensure that nesting birds are protected as proposed, **Special Condition 5 (Protection of Nesting Birds)** reinforces MCSD's proposed measures with certain modifications to add clarity and specificity. In addition, the general construction responsibilities required by Special Condition 2 will further protect any special status nesting birds that may occur within the project area.

### *Roosting Bats*

A reconnaissance-level site visit was conducted on May 24, 2022 and identified suitable roosting and foraging habitat for special status bats. Two special status bats have a moderate potential to occur within or directly adjacent to the BSA: the Townsend's Big-eared Bat (*Corynorhinus townsendii*) and the Long-eared Myotis (*Myotis evotis*), which have both been detected adjacent to the project area.

Therefore, to protect roosting bats that have the potential to be impacted by the project, MCSD proposes the following mitigation measures:

- Removal of confirmed or presumed-occupied bat roost habitat will occur when bats are volant (i.e., able to leave roosts), between March 1 and April 15 or September 1 and October 15, when evening temps rise above 45 F, and when no rainfall greater than ½ inches has occurred in the last 24 hours.
- If trees or structures cannot be removed during the volant period, i.e., Project activities occur during the bat maternity season which generally occur April 16th through August 30th, a biologist will conduct surveys within seven days prior to construction in any areas where potential maternity roosts may be disturbed/removed.
- If the presence of a maternity roost is confirmed, an appropriate buffer distance will be established in consultation with CDFW to ensure that construction noise will remain below disturbance thresholds for bats. If no bat utilization or roosts are found, then no further study or action is required. If bats are found to utilize the BSA, or presence is assumed, a bat specialist should be engaged to advise the best method to prevent impact. Project-related lighting shall be minimized if any construction occurs at night, either contained within structures or limited by appropriate reflectors or shrouds and focused on areas needed for safety, security or other essential requirements.

To ensure that roosting bats are protected as proposed, **Special Condition 6 (Protection of Roosting Bats)** reinforces MCSD's proposed measures with certain modifications to add clarity and specificity. In addition, the general construction responsibilities required by Special Condition 2 will further protect any special status roosting bats that may occur within the project area.

*Special Status Bumble Bees*

One special status invertebrate, the Western Bumble Bee (*Bombus occidentalis*), was observed in the BSA during a reconnaissance level survey. The species is critically imperiled (S1) and is a candidate for listing pursuant to the California Endangered Species Act with the full protection afforded to listed species until a designation is made. Vegetation removal and ground disturbance have the potential to impact special status bumble bees and their habitat.

Therefore, to protect special status bees that have the potential to be impacted by the project, MCSD proposes the following mitigation measures, which were developed in response to comments submitted by CDFW during the CEQA environmental review phase:

- MCSD will coordinate with the California Department of Fish and Wildlife (CDFW) to complete pre-construction surveys for Western Bumble Bee. If no Western Bumble Bees are detected, construction monitoring will not occur.
- If pre-construction surveys conducted by CDFW identify Western Bumble Bee, the following will be implemented as recommended by CDFW in areas of suitable Western Bumble Bee habitat (areas near floral resources, leaf litter, old mammal burrows, downed wood, and similar habitats):
- CDFW will be notified at least two weeks in advance of ground disturbing activities to support CDFW-led early season scouting and any concurrent targeted surveys led by CDFW staff.
- If feasible, vegetation in areas with suitable Western Bumble Bee habitat shall be cleared during late winter months (January 1 through February 28).
- If feasible, ground-disturbing activities in areas with suitable Western Bumble Bee habitat shall be completed prior to May.
- If ground-disturbing activities in areas with suitable habitat for the Western Bumble Bee occur after May 1, a qualified biologist shall scout the area for Western Bumble Bee immediately prior to the initial ground disturbance, with particular attention to floral resources and nest sites (non-capture photography surveys. if feasible, based on the Rusty Patched Bumble Bee survey guidelines, species will not be physically handled).
- CDFW will be immediately notified of any Western Bumble Bee sightings by MCSD and their qualified biologist. If a colony is identified, disturbance near the colony will pause until suitable avoidance measures can be determined in coordination with CDFW. If an individual is identified, work will pause until the individual leaves the area of disturbance.



To ensure that special status bees are protected as proposed, **Special Condition 8 (Protection of Western Bumble Bee)** reinforces MCSD's proposed measures with certain modifications to add clarity and specificity. In addition, the general construction responsibilities required by Special Condition 2 will further protect any special status bumble bees that may occur within the project area.

#### 4. Maintenance of the Functional Capacity of the Wetlands

Another general limitation set by section 30233(c) of the Coastal Act is that any proposed dredging or filling in existing coastal wetlands must maintain or enhance the functional capacity of the wetlands.

Following completion of construction, temporarily disturbed wetlands will be revegetated and all trash, debris, and other construction-related materials will be fully removed from the site. While approximately 264 square feet (0.006 acre) of wetlands will be permanently filled by drainage infrastructure (e.g., culvert headwalls) and no longer function as wetlands, the remaining approximately 28,007 square feet (0.643 acre) of impacted wetlands are proposed to be revegetated and are expected to continue to function as wetlands following completion of construction (while also functioning as part of the drainage system, in many areas). Compensatory mitigation for anticipated wetland impacts will also result in the creation and/or substantial restoration of approximately 17,932 square feet (0.412 acre) of wetlands within the project vicinity.

In addition to the anticipated direct impacts to wetlands and potential impacts to wildlife within these habitat areas, discussed above, vegetation removal, ground disturbance, and other dredging and filling activities within wetland habitat in the project area have the potential to cause erosion and sedimentation and release certain pollutants, thereby adversely affecting soil and water quality and impacting the functional capacity of the wetlands as a result. However, the various BMPs to protect soil and water quality proposed by MCSD as modified and reimposed as special conditions of this CDP would minimize the magnitude and duration of these potential impacts during construction (these BMPs and mitigation measures are primarily discussed below in Section F regarding the protection of Marine Resources and Water Quality) and would provide for site stabilization and restoration of the majority of impacts post construction. The project will also have indirect benefits to wetland habitat as stormwater will be better managed, resulting in reduced flooding of developed areas and resulting mobilization of contaminants into coastal waters and habitat.

Therefore, the Commission finds that the project, as conditioned, will maintain and enhance the functional capacity of wetlands consistent with the requirements of Coastal Act section 30233(c).

### **Conclusion**

For all of the reasons set forth above, the Commission finds that the project, as proposed and conditioned, is an allowable use within wetlands, that there is no feasible less environmentally damaging alternative, that feasible mitigation will be provided to

minimize all significant adverse impacts associated with the dredging and filling of coastal wetlands, that wetland habitat values will be maintained or enhanced, and that coastal water quality will be protected. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with section 30233 of the Coastal Act.

#### **F. Marine Resources and Water Quality**

Section 30230 of the Coastal Act states as follows:

*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.*

Section 30231 of the Coastal Act states as follows:

*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 water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30232 of the Coastal Act states as follows:

*Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

The proposed project consists of maintenance and enhancement to a drainage system hydrologically connected and adjacent to Humboldt Bay. Therefore, project activities such as grading within and around the drainage system, dewatering, pouring and curing concrete, and debris containment and disposal have the potential to impact marine resources and the biological productivity and quality of coastal waters and the Commission must find the project to be consistent with the provisions of sections 30230, 30231, and 30232.

#### ***Minimizing Construction and Maintenance-related Impacts to Water Quality***

The primary potential water quality impacts from proposed construction activities fall under two general categories: (1) increased turbidity in coastal waters from sedimentation during vegetation clearing and grading within and around the drainage

channels, and (2) accidental spills or releases of pollutants and debris, such as concrete and equipment fluids or contaminated sediments located around the project area. As discussed below, MCSD proposes to implement various standard measures to provide for site stabilization and debris containment during and post-construction/maintenance and to ensure proper handling and storage of contaminants to avoid accidental spills or mobilization into coastal waters.

Construction and maintenance activities such as site clearing, grading, excavation, material stockpiling, placement of aggregate base, and related project activities could leave soils exposed to rain or surface water runoff that may carry soil contaminants (e.g., nutrients or other pollutants) into waterways adjacent to the site, degrading water quality. However, project activities are planned for the summer and fall months when conditions are driest, to minimize the risk of rainfall during the work period and thus stormwater runoff when graded soils are exposed. In advance of a forecasted rain event, silt fences may be installed to prevent discharge of sediment outside the work area. Following the completion of grading activities, all disturbed areas will be seeded and hydromulched and staging areas and temporary access paths will be restored to pre-project conditions. Implementation of the Wetland Habitat Mitigation and Monitoring Plan discussed in Section E (Wetlands), above, will ensure successful site stabilization and restoration.

The project will utilize heavy machinery to perform some construction and initial maintenance-related tasks including grading, drilling, and excavation. Construction of the project will also include the transport and use of common hazardous materials inherent to the construction process, including petroleum products such as fuel and lubricants for construction equipment and vehicles, concrete curing compounds, and solvents for construction of project improvements. Therefore, there is the possibility of accidental spills and leakages of these pollutants into coastal waters. However, equipment on site during construction will be required to have emergency spill cleanup kits immediately accessible in case of any fuel or oil spills, with operators trained in spill control procedures. In addition, equipment would not be refueled near Humboldt Bay or any perennial wetland to the extent feasible, and if equipment must be washed, it would be washed off-site. MCSD will ensure that any liquid fuel pumps used on-site (e.g., for dewatering) are placed on absorbent pads and containment implements. Where concrete will be poured and cured (e.g., for new culvert headwalls), the area will first be isolated and concrete will be allowed to cure for a minimum of 14 calendar days prior to removal of stormwater protection BMPs. Concrete wash-out facilities will be located in the staging area with stormwater BMPs implemented to prevent discharges.

To ensure that project activities do not inadvertently encroach into Humboldt Bay, temporary exclusion fencing will be installed along the shoreline near planned areas of ground disturbance to limit inadvertent disturbance near aquatic habitat. All construction related to culverts and flap gates near the shoreline of Humboldt Bay will occur during low tide. Inland of the shoreline, existing drainage ditches do not typically exhibit flowing water in the summer and fall months when work is anticipated; however, the project area is known for high seasonal groundwater elevations. Therefore, dewatering of excavations may be needed in some locations, in which case MCSD would implement

the following measures: silt fences or cofferdams placed downstream of the work area to prevent off-site sediment runoff; a submersible pump (or similar) placed in the excavation water and piping will be connected to a settling tank or sediment filtration bags to remove sediment; clear water discharged to a nearby upland area; discharge to regulated waters would not occur.

Certain details regarding the above-described best management practices and mitigation measures remain to be finalized. Therefore, **Special Condition 3 (Water Quality Protection Measures)** requires that final water quality protection measures be developed prior to commencement of construction. Special Condition 3 also requires that the final water quality protection measures include a schedule for the management of all BMPs.

Although erosion and sediment control products classified as temporary are designed to degrade with time, several temporary erosion and sediment control products with plastic netting are commonly left in place permanently. The length of time it takes for plastic netting to begin to degrade depends on the netting composition and the environmental conditions, but the netting can remain intact many years after installation. When plastic netting does eventually fall apart, plastic fragments may be blown or washed into waterways and the ocean, creating an entanglement and ingestion hazard for marine life. Plastic netting also has been found to entangle terrestrial wildlife, including reptiles, amphibians, birds, and small mammals. Therefore, the Commission also attaches **Special Condition 2-K (Plastic Netting Prohibition)**, which prohibits the use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers).

### ***Debris Containment and Disposal***

The project will generate various forms of waste and debris during construction activities. For example, and as mentioned above in Section E (Wetlands), MCSD anticipates disturbing approximately 28,270 square feet (0.649 acre) of wetlands for the proposed project, which will primarily involve vegetation removal as well as some grading. MCSD anticipates a total of approximately 2,930 cubic yards of cut and approximately 540 cubic yards of fill. Excavated material will either be used as needed backfill material during construction or hauled away to an authorized disposal site. Temporary storage of excavated material may also be necessary, which would occur at designated stockpiling and staging areas such as roadway shoulders and paved or graveled areas at the Manila Community Center, Manila Community Park, and/or the MCSD office. The final water quality protection measures required by Special Condition 3 will include BMPs to be utilized within the stockpiling and staging area(s) to control erosion and prevent sediment and hazardous materials from impacting the environment. Excess materials will not be stockpiled on-site once the project is complete, but instead will be hauled offsite for beneficial re-use, recycling, or legal disposal.

Although MCSD has proposed to dispose of all trash, debris, and other excess materials at an appropriately permitted upland disposal facility, specific details on debris

disposal for the project have not been provided, such as the names of authorized disposal site(s) where materials may be lawfully disposed of and a schedule for when materials would be removed from the construction site, as this information normally is determined by the contractor at the time of construction. Thus, to avoid potential adverse impacts to coastal waters and marine resources from unlawful disposal and discharges of debris, **Special Condition 13 (Debris Disposal Plan)** requires submittal of a plan for the review and approval of the Executive Director prior to the commencement of construction for the disposal of excess construction debris and any hazardous materials. The plan must list the names of all authorized disposal site(s) where materials will be lawfully disposed of and that describes the manner and schedule by which the materials will be removed from the construction site and transported for disposal.

### **Conclusion**

For all the reasons discussed above, the Commission finds that the development, as conditioned, will maintain marine resources and the biological productivity and quality of coastal waters consistent with Coastal Act sections 30230, 30231, and 30232.

### **G. Environmentally Sensitive Habitat Areas**

Section 30240 of the Coastal Act states as follows:

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

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

The Coastal Act defines environmentally sensitive habitat areas (ESHAs) as areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments (Section 30107.5).

As discussed above in Section E, a Wetland Delineation, Botanical and Sensitive Natural Community Assessment Memorandum, and Wildlife Habitat Assessment Memorandum were prepared to assess baseline environmental conditions within the project area and were submitted as part of the application. These studies evaluate the potential for any special status plants, wildlife species, sensitive natural communities (SNCs), aquatic resources, or Environmentally Sensitive Habitat Areas (ESHAs) to occur. The Biological Study Area encompasses a 0.25-mile radius around the project footprint.

The surveys found that construction of the proposed project will have temporary and permanent impacts to wetland habitat and could also potentially impact special status

plants and wildlife within these wetland habitat areas. Wetland habitat delineated within the project area qualifies as environmentally sensitive habitat areas because the area is especially valuable due to its role in the ecosystem of providing essential habitat for a diverse assemblage of sensitive species. Therefore, the wetland habitat is considered wetland ESHA.

Since these areas constitute wetland ESHA and the project will directly impact these areas, section 30233 of the Coastal Act controls when evaluating a proposed project's impacts in wetland ESHA. Section 30233 allows for dredging and filling of wetlands despite impacts to the wetland ESHA, subject to certain criteria and importantly including that such projects incorporate feasible mitigation measures. As stated in *Bolsa Chica Land Trust v. Superior Court*,

...the ESHA protections provided by section 30240 are more general provisions and the wetland protections provided by section 30233 are more specific and controlling when a wetland area is also an ESHA.... Section 30240, a more general policy, also applies, but the more specific language in the former sections is controlling where conflicts exist with general provisions of Section 30240.

((1999) 71 Cal.App4th 493, 515.) As such, the aspects of the proposed project which result in or are related to the dredging and filling of wetlands that are also considered ESHA may be allowed under section 30233 if all requirements of that section are met. As discussed in Section E (Wetlands), the project as conditioned is consistent with the use limitations and requirements of section 30233.

The project as conditioned is also consistent with section 30240(b) of the Act because it will avoid and mitigate potential impacts to adjacent ESHA in several ways. First, Special Conditions 2-8 require implementation of various Best Management Practices, including flagging of sensitive areas prior to commencement of development to avoid construction encroachment into these areas and maintain the smallest impact footprint feasible. In addition Special Condition 10 requires submittal and implementation of a final Wetland Habitat Mitigation and Monitoring Plan that, among other requirements, will require the management of invasive species within disturbed areas, which will reduce the likelihood of invasive species spreading into adjacent wetland habitat.

In addition to ESHA, the proposed project is also within and adjacent to park and recreation areas, including the Manila Dunes Recreation Area and the Manila Community Park. Although the proposed project will have some, mostly temporary, impacts on habitat within and adjacent to these areas, with implementation of the various measures discussed herein the proposed project will not result in significant degradation of these areas. In fact, MCSD proposes to create a new area of wetlands within the Manila Community Park as part of its wetland mitigation plan. In addition, the project will improve public access to these park and recreation areas as the purpose of the project is to address persistent flooding that affects mobility in the community of Manila.

Therefore, the BMPs and mitigation measures proposed by MCSD (Exhibits 6 and 7), as modified and reinforced as special conditions of this CDP, will prevent impacts that would significantly degrade ESHAs within and around the project site and ensure the development is compatible with the continuance of the various types of ESHAs. Therefore, for the reasons discussed above, the Commission finds that the proposed project as conditioned is consistent with section 30240 of the Coastal Act.

#### **H. Public Access**

Coastal Act section 30210 states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Coastal Act section 30211 states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Coastal Act section 30212(a) states, in part:

*Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected.*

Coastal Act section 30214 states:

*(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*

*(1) Topographic and geologic site characteristics.*

*(2) The capacity of the site to sustain use and at what level of intensity.*

*(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*

*(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

*(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*

*(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

Recreational facilities near the project area include the Manila Dunes Recreation Area, Manila Community Park, and the Humboldt Coastal Nature Center. As described in Section A (Project Description) the project area has persistent flooding issues, which affect mobility and therefore public access to surrounding coastal access points and recreation areas.

The anticipated timing of project construction is from May 2024 to October 2024, although it may extend outside of that timeframe, during which there may be temporary traffic delays and other minor public access impacts. Temporary lane closures on Young Lane, Peninsula Drive, Mill Street, and Victor Boulevard may be required, in which case County requirements for signage and public noticing would be followed. Construction would result in vehicle trips by construction workers and haul-truck trips for material off-haul and deliveries via Highway 255 from the north and Highway 101 from the south. Construction-related traffic would be temporary, would vary on a daily basis, and would be distributed over the course of a workday and work week.

Staging and stockpiling will occur at the Manila Community Center, prioritizing the asphalt area in the northeast corner and the area within the turnaround. If additional space is required, a staging a stockpile area is available at the Manila Community Park as well as at the MCSD office. In the event that additional staging and stockpiling locations are needed at the Manila Community Center site, additional parking areas may be made available without preventing access to the ADA ramp or ADA compliant parking spaces. Public restrooms, trails, and coastal access will remain open throughout the project area.

Overall, the project may have minor, temporary impacts to public access through traffic delays during construction, but over the long-term, the project will permanently improve public access by addressing persistent flooding that affects mobility in the coastal community of Manila. Therefore, the Commission finds that the proposed project, as



conditioned, will not have a significant adverse effect on public access, and the project as conditioned is consistent with the requirements of Coastal Act sections 30210, 30211, 30212, and 30214.

### **I. Archaeological Resources and Tribal Consultation**

Section 30244 of the Coastal Act states as follows:

*Where development would adversely impact archeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

In addition, in 2018 the Commission adopted a Tribal Consultation Policy<sup>2</sup> to guide consultation with Tribal entities in permitting and other matters.

A Cultural Resource Investigation was prepared for the project on behalf of MCSD in 2022 by consultants who meet the Secretary of Interior's Professional Qualifications Standards for Archaeology. The investigation included a review of regional archaeological and ethnogeographic literature and historical maps, a project area record search at the California Historical Resources Information System's Northwest Information Center (NWIC) in Rohnert Park California, correspondence with local Native American tribal representatives, and a pedestrian field survey. The study area is termed the Area of Potential Effect (APE) and is located in Wiyot ancestral lands.

The investigation included meetings at the project area with the Tribal Historic Preservation Officers (THPOs) for the Blue Lake Rancheria, the Wiyot Tribe and the Bear River Band of the Rohnerville Rancheria, as well as additional telephone conversations. The investigation did not document any archaeological resources in the direct APE; however, the project area is known to be culturally sensitive and several sites are located in very close proximity (within 100 feet). The THPOs for the three Tribes mentioned above were informed of the results of the field survey and correspondence resulted in recommendations for monitoring all excavation work related to the project. The Bear River Band of Rohnerville Rancheria THPO specifically requested that a monitor from the Bear River Band of Rohnerville Rancheria be present during excavations in specific locations within the project area.

Therefore, MCSD proposes to retain a qualified cultural resource monitor who is approved by the Wiyot Tribe, Bear River Band of the Rohnerville Rancheria, and the Blue Lake Rancheria to monitor ground disturbing activities related to this project in areas the Tribes deem culturally sensitive, including:

- Any ground disturbance within ~100 feet of a recorded site

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<sup>2</sup> <https://documents.coastal.ca.gov/assets/env-justice/tribal-consultation/Adopted-Tribal-Consultation-Policy.pdf>

- Excavation meeting or exceeding 1 foot (below historical flow line) within existing drainage channels
- In locations where new culverts will be placed and excavation meets or exceeds 1 foot below existing culvert flow line
- In locations where grading is occurring to construct new drainage features regardless of the excavation depth
- Any excavation where the construction inspector is not present to oversee that the excavation does not exceed the lines or grades on the final design construction plans

MCSD proposes to contact the three THPOs or their functional equivalent to set up and implement a cultural monitoring contract prior to commencement of construction. If archaeological resources are encountered during construction activities, the contractor on site will cease all work in the immediate area and within a minimum 66-foot buffer of the discovery location. A qualified archaeologist, as well as the THPOs for the Bear River Band of the Rohnerville Rancheria, Blue Lake Rancheria, and Wiyot Tribe will be contacted to evaluate the discovery and a treatment plan will be developed in any instance where significant impacts cannot be avoided.

While the Cultural Resource Investigation did not determine archaeological resources were likely to be present within the APE, inadvertent discovery of human remains may still occur, in which case standard legal procedures would be followed.

Consistent with the Commission's Tribal Consultation Policy, Commission staff reviewed the tribal consultation undertaken by MCSD and submitted as part of the permit application and on September 27, 2023 Commission staff wrote to the Tribal representatives and individuals identified by the NAHC to inform them of the project's CDP application and the Commission's upcoming hearing on the project, to offer consultation, and to advise them of the opportunity to provide comments for the CDP hearing. One response has been received from the THPO for the Blue Lake Rancheria, who recommend that a standard incidental discovery protocol be implemented.

To reinforce MCSD's proposed measures to protect any sensitive archaeological resources in the project area, the Commission includes **Special Condition 9 (Protection of Archaeological Resources)**. Special Condition 9 further requires that if MCSD seeks to recommence project activities within an exclusion zone following a discovery of archaeological or tribal cultural resources, they must submit an Archaeological Protection Plan for the review and written approval of the Executive Director, who shall also determine whether any resulting changes to the project require a permit amendment.

In conclusion, based on the findings of the records search and surveys, the tribal consultation and outreach performed by MCSD, their consultants, and the Commission; as well as the archaeological and tribal cultural resource protection protocols that will be

implemented by MCSD as part of the project, the Commission finds that the proposed project, as conditioned, includes reasonable mitigation measures to protect archaeological resources consistent with Coastal Act Section 30244.

## J. Hazards

Section 30253 of the Coastal Act states, in applicable part, as follows:

*New development shall do all of the following:*

- (a) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

[..]

As noted in the Project Description finding, flooding from stormwater in Manila has become more severe over time as connectivity between the limited existing facilities has diminished and undersized roadside ditches and failing culverts constrain hydraulic capacity. In addition, the project is located adjacent to Humboldt Bay and therefore is in an area vulnerable to increased tidal flooding as well as permanent tidal inundation as a result of sea level rise. The primary purpose of the proposed project is to minimize the risk of stormwater flooding developed areas surrounding the drainage system proposed for maintenance and enhancement. Where existing culverts on the Humboldt Bay shoreline that have flap gates would be replaced, the new culverts would also have flap gates, which prevent higher tides from flowing into the drainage system.

The proposed project will improve the reliability, hydraulic capacity, and connectivity of the drainage system, thereby minimizing risk to life and property from flood hazards. The Commission therefore finds that the proposed project is consistent with Section 30253 of the Coastal Act. However, because the drainage system is by design located in a flood zone and may channel large volumes of runoff during storm events, **Special Condition 15 (Assumption of Risk, Waiver of Liability, and Indemnity)** requires the applicant to assume the risk of hazard and accept a waiver or liability related to the drainage maintenance and enhancement work approved in this permit.

## K. California Environmental Quality Act (CEQA)

MCSD served as the lead agency for California Environmental Quality Act (CEQA) purposes for the project. MCSD prepared an Initial Study and adopted a Mitigated Negative Declaration for the project on April 18, 2023.

The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of environmental review under CEQA. (14 CCR § 15251(c).) Section 13096 of Title 14 of the Commission's regulations requires Commission approval of CDP applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirement of CEQA. Section

21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. No public comments regarding potential significant adverse environmental effects of the project were received by the Commission prior to preparation of the staff report. As discussed above, the proposed project has been conditioned to be consistent with the policies of the Coastal Act. As specifically discussed in these above findings, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which 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, has no remaining significant environmental effects, either individual or cumulative, and complies with the applicable requirements of the Coastal Act to conform to CEQA.

**APPENDIX A**

**SUBSTANTIVE FILE DOCUMENTS**

1. CDP Application File No. 1-23-0353
2. Humboldt County certified Humboldt Bay Area Plan