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## STAFF REPORT: AMENDMENT

**Application No.:** 6-08-110-A4

**Applicant:** City of Encinitas

**Agent:** Todd Mierau, City of Encinitas

**Location:** On the sandy beach at Batiquitos, Leucadia, Moonlight, and Cardiff Beaches, Encinitas, San Diego County.

**Original Project Description:** Opportunistic Beach Fill Program to capitalize on opportunities to obtain beach-quality sand from upland or dredging projects in the region for placement on Batiquitos and Moonlight Beach.

**Proposed Amendment:** Extend the existing program by ten years.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The City of Encinitas' original opportunistic beach replenishment program was approved in August 2009 and allowed for placement of sand for a five-year period at two receiver sites within the City - Batiquitos and Moonlight Beaches. The program is designed to capitalize on opportunities to obtain surplus sand from upland construction, development, or dredging projects as they arise, and to place the sand at specific locations on the Encinitas shoreline instead of depositing the material to an inland disposal site. Projects that fall within the program parameters, which include maximum amounts of sand, deposition methods, seasonal placement restrictions, and grain size

criteria, can proceed without additional approval from the Commission. Projects which do not meet the standards of the program or projects that raise any additional potential for impacts to coastal resources would require further review and approval by the Commission through a separate coastal development permit (CDP) or amendment. The project has been designed and conditioned to avoid impacts to sensitive habitat, public access and recreation, and no adverse impacts to coastal resources are anticipated. During the initial five-year period of the beach replenishment program (August 2009 through August 2014) the City completed two opportunistic replenishment projects.

In August 2014, the permit was amended to extend the permit term for an additional five year period from August 2014 through August 2019, add two additional receiver sites, (Leucadia Beach and Cardiff Beach), limit the amount and location of material that could be placed at each site, and shorten the time period in which sand could be placed from 8.5 months to 5.5 months (September 15<sup>th</sup> to February 28<sup>th</sup>) to avoid prime beach use time and to avoid nesting/spawning of grunion and shore birds, and to replicate the natural process of sediment delivery to the coast during the fall and winter. The City's Opportunistic Beach Fill Program was used to implement one project during the five-year permit period.

In October 2019, the permit was amended to extend the permit term for another five-year period from October 2019 through October 2024, and an extension of placement activities into the spring (September 15<sup>th</sup> through May 28<sup>th</sup>) to allow for additional flexibility in the receipt of sand sources from construction projects. Additional biological monitoring plans were required to mitigate potential adverse impacts to grunions, western snowy plovers and California least terns. The City's Opportunistic Beach Fill Program was used to implement one project during the prior five-year permit period.

The City is not proposing any changes to the previously approved project operation, including sand placement amounts, timing, or monitoring. While in previous amendments the City requested five-year extensions of the permit term, the City is now requesting a 10-year permit, given the limited number of projects actually implemented under the SCoup program. While the Commission supports sand replenishment, it is possible that conditions may change over time and additional monitoring or placement parameters may be necessary to ensure that coastal resources are adequately protected. Therefore, **Special Condition No. 12**, as amended by this permit amendment, establishes a ten-year permit term, and **Special Condition No. 14** is added to require that the City submit a "changed conditions" report after five years. The Changed Conditions Report shall be based on the results of any Project Notification Reports and Post-Discharge Reports completed pursuant to this CDP and the associated monitoring, and provide a summary and analysis of whether adverse impacts from opportunistic sand nourishment have been detected by any available studies that focus on nearshore reef systems located within or adjacent to the City beach boundaries or by available beach transect data within or adjacent to the City beach boundaries. If there are no changed conditions and no anticipated significant adverse impacts on coastal resources or public access, then the program may continue for the additional five years. If the Executive Director (ED) determines that there are

changed conditions or adverse impacts, a new CDP or CDP amendment may be required.

Three other special conditions are proposed to be amended in this permit. **Special Condition No. 11** as amended removes the requirement for the City to submit an analysis of impacts studies due to the opportunistic sand replenishment projects detected in Marine Protected Area (MPA) studies as a part of Project Notification Reports and Post-Discharge Reports. The analysis will instead be required to be included in the Changed Conditions Report, per **Special Condition No. 14**. **Special Condition No. 1** requires the City to submit a revised Final Project Notification Report Template that includes up-to-date project parameters and monitoring requirements to reflect the current requirements and special conditions from past and the current amendment, and removal of the requirement to submit an annual report if a project is completed in a given year. In addition, the revised Final Project Notification Report Template will replace the four listed MPA studies included in the last approved template with monitoring data and reports regarding status of and changes in nearshore habitat types, acreage, and/or species, and special status and fishery species in Swami's State Marine Conservation Area (SMCA) and Cardiff Reef that may be used to compile the biological conditions section of submitted reports. **Special Condition No. 6** will be amended to also remove the requirement of submitting an annual report if a project is completed in a given year. These changes, along with requiring an in-depth project assessment and analysis in the Changed Conditions Report, will streamline the reporting requirements of the project.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-08-110-A4, as conditioned. The motion is on page 5. The standard of review is Chapter 3 of the Coastal Act.

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### EXHIBITS

[Exhibit 1 – Project Location/Receiver Beaches](#)

[Exhibit 2 – Swami’s SMCA Map](#)

[Exhibit 3 – Project Notification Report Template 6-08-110-A2](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve the proposed amendment to Coastal Development Permit 6-08-110-A4 pursuant to the staff recommendation.

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

### Resolution:

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

## II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. The Executive Director may extend this period by one year for good cause. 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

NOTE: Appendix A, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment no. 6-08-110-A4. All of the Commission's adopted special conditions and any changes in the project description proposed by the applicant and approved by the Commission in this or previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on amendment no. 6-08-110-A4 are shown in the following section. Within Appendix A, changes to the previously approved special conditions are also shown in strikeout/underline format. This will result in one set of adopted special conditions.

1. Special Condition No. 1 of CDP No. 6-08-110-A3 shall be amended as follows:

**Revised Final Project Notification Report Template. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the City shall submit for review and written approval by the Executive Director, a revised final Project Notification Report Template in substantial conformance with the ~~preliminary approved~~ Project Notification Report Template from 6-08-110-A2 (attached as Appendix B Exhibit 3) and consistent with all special conditions in effect. The revised final Project Notification Report Template shall update the following information:

- a) The paragraph before Section 1 Introduction shall include the sentence, "Written approval of each PNR by the Executive Director of the Commission is required."
- b) In Section 1 Introduction, the Proposed Placement Volumes and Seasonal Restrictions table to match the permitted season of September 15<sup>th</sup> to May 28<sup>th</sup> of each year.
- c) In Section 5 Public Notification Process, add that posting of a pending project will also be posted on the City's website. The results of the material testing will also be available on the City's website.
- d) In Section 6 Project Monitoring, monitoring data and reports regarding status of and changes in nearshore habitat types, acreage, and/or species, and special status and fishery species in Swami's State Marine Conservation Area (SMCA) and Cardiff Reef shall replace the four specific studies that may be used to compile the biological conditions section of submitted reports.
- e) In Section 6 Project Monitoring, Table 2 Summary of Project Design Features and Monitoring Actions to include grunion and avian monitoring avoidance.

- f) In Section 6 Project Monitoring, remove the requirement to submit an annual report to the Commission if a project is implemented in a given year.
- g) In Section 8 Submittals, add the required submittal of a Changed Conditions Report five years from the date of Commission approval of CDP Amendment No. 6-08-110-A4.

The City shall comply with the procedures and submittal requirements outlined in the approved Project Notification Report. Any proposed changes to the approved Project Notification Report shall be reported to the Executive Director. No change to the Project Notification Report shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

- 2. [Special Condition No. 2 of CDP No. 6-08-110 remains unchanged and in effect]
- 3. [Special Condition No. 3 of CDP No. 6-08-110-A2 remains unchanged and in effect]
- 4. [Special Condition No. 4 of CDP No. 6-08-110-A2 remains unchanged and in effect]
- 5. [Special Condition No. 5 of CDP No. 6-08-110-A2 remains unchanged and in effect]
- 6. Special Condition No. 6 of CDP No. 6-08-110-A2 shall be amended as follows:

**Lagoon Mitigation and Monitoring. PRIOR TO APPROVAL OF EACH PROJECT NOTIFICATION REPORT**, the City shall submit to the Executive Director evidence of consultation and agreement with the relevant managers for the Batiquitos and San Elijo Lagoon systems. This agreement shall include identification of how sediment accumulation in the lagoons is monitored, and acknowledge that if increased sediment levels are attributed to the beach nourishment activities entitled by this permit, the City shall negotiate with lagoon owners at that time to determine fair share compensation for maintenance efforts.

The City will submit an update on lagoon shoaling and necessary dredging activities as a part of each Project Notification Report submittal ~~and as a part of an annual report submitted (if a project is implemented during a given year)~~ by July 15 to the Executive Director of the Commission. This update will provide results of lagoon monitoring and details any compensation paid by the City for maintenance efforts. The City shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

- 7. [Special Condition No. 7 of CDP No. 6-08-110-A2 remains unchanged and in effect]
- 8. [Special Condition No. 8 of CDP No. 6-08-110-A2 remains unchanged and in effect]

9. [Special Condition No. 9 of CDP No. 6-08-110-A3 remains unchanged and in effect]
10. [Special Condition No. 10 of CDP No. 6-08-110-A3 remains unchanged and in effect]
11. Special Condition No. 11 of CDP No. 6-08-110-A3 shall be amended as follows:

**Existing Conditions Monitoring.** By May 1 three years after the date of approval of this permit (i.e. by May 2022), the City will either 1) conduct new studies to document existing conditions of the on- and nearshore beach communities (e.g. onshore infaunal beach and rocky intertidal habitat; nearshore soft bottom, hard bottom, surfgrass, and kelp forest habitat) and beach transects for Batiquitos, Leucadia, Moonlight, and Cardiff beaches OR 2) compile and update this information using existing reports and data (e.g., the previously submitted report “The City of Encinitas Opportunistic Beach Fill Program Baseline Information Report Guidance (May 2017),” MPA monitoring data, SANDAG data, existing academic studies, etc.) for use in producing an existing conditions report that will be submitted to the Executive Director for review and written approval.

The City will continue to contact the California Department of Fish and Wildlife (CDFW) to notify CDFW of dates, times, sand volumes of opportunistic sand placement, to allow CDFW to provide input on any potential adverse impacts of the beach replenishment program on adjacent MPA’s, and to ensure the MPA survey protocols are designed such that data can be used to detect potential adverse impacts of sand replenishment.

The City will submit a biological resources condition report as part of each Project Notification Report submittal and additionally a post-project report, both of which shall consist of similar content as the Existing Conditions Report (as described above) ~~and will provide a summary and analysis of whether adverse impacts from opportunistic sand nourishment has been detected for all available MPA studies that focus on nearshore reef systems located within or adjacent to the City beach boundaries.~~ The post-project report shall be submitted by the following July 15<sup>th</sup> to the Executive Director of the Commission. ~~If the MPA studies existing data or reports, including but not limited to this report, find that adverse impacts to the on- or nearshore beach communities have occurred as a result of increased sand levels MPA have occurred as a result of increased sand levels within these nearshore areas or if beach transect data show a significant increase in sand levels over historic levels,~~ the Executive Director of the Commission shall determine if an amendment to this CDP is required to include more intensive nearshore monitoring efforts to address any new impacts not already addressed and mitigated under this permit, prior to any additional placement of sand on any of the City’s beaches.

12. Special Condition No. 12 of CDP No. 6-08-110-A3 shall be amended as follows:

**Scope and Term of Permit Approval.** The development authorized by this CDP amendment is limited to beach nourishment that is consistent with the project limits identified in the ~~preliminary~~ Revised Final Project Notification Report Template,

including, but not limited to, the placement sites, maximum quantities of beach nourishment, seasonal limitations on placement, and methods of delivery. Activities may take place only from September 15th to May 28th of each year. The authorization for continuing development pursuant to this permit amendment shall expire ~~five~~ ten years (i.e., by March 2035) from the date of Commission approval of CDP Amendment No. 6-08-110-A3A4.

13. [Special Condition No. 13 of CDP No. 6-08-110-A3 remains unchanged and in effect]
14. Special Condition No. 14 shall be added as follows:

**Changed Conditions Report.** Five years from the date of Commission approval of this amendment, the applicant shall submit one printed copy and one digital copy of a Changed Conditions Report to the Executive Director for review and written approval. The Changed Conditions Report shall include:

- a) A summary of all placement activities conducted under the program, and a summary of monitoring results, as informed by the monitoring reports described in the Project Notification Report Template.
- b) A summary of all sand placement activities including those other than SCoup activities within the City.
- c) A summary and analysis of whether adverse impacts from opportunistic sand nourishment has been detected for all available studies that focus on nearshore reef systems located within or adjacent to the City beach boundaries. Specifically, the report shall compare the project data gathered prior to, during, and following sand placement activities with any existing data or reports in Swami's SMCA and Cardiff Reef regarding habitat types, acreage, and/or species, and fishery and special status species, to interpret whether opportunistic sand nourishment adversely impacted nearshore reef systems. Further, the report shall interpret available beach transect data within or adjacent to the City beach boundaries over the sand placement period. If existing data or reports, including but not limited to this report, find that adverse impacts to Swami's SMCA have occurred as a result of increased sand levels within these nearshore areas or if beach transect data at any beach between within or adjacent to the City beach boundaries show a significant increase in sand levels over historic levels, the Executive Director of the Commission shall determine if an amendment to this CDP is required to include more intensive nearshore monitoring efforts to address any new impacts not already addressed and mitigated under this permit, prior to any additional placement of sand on any of the City's beaches.
- d) The report shall summarize the effectiveness of the Special Conditions in meeting project objectives, including in terms of maintaining public coastal

access, habitat values, and coastal resource protection, and include any changes needed to better meet these objectives or protect coastal resources.

If the Executive Director determines that there are changed circumstances and that an amendment to this CDP or a separate CDP is legally required to continue this program, the permittee shall submit and complete the required application within 90 days.

## **IV. FINDINGS AND DECLARATIONS**

### **A. Project History and Amendment Description**

The City of Encinitas is proposing to extend its existing opportunistic sand replenishment project to allow for the processing of multiple beach replenishment projects for an additional 10-year period. Projects conducted under the proposed amendment would be implemented in the same manner as prior Commission-approved activities. The amendment would allow the placement of up to 450,000 cubic yards (cy) every five years of opportunistic sand at the four receiver beaches: Batiquitos State Beach, Leucadia State Beach, Moonlight State Beach, and Cardiff State Beach ([Exhibit 1](#)). As detailed below, the permit includes a set of specific and rigorous criteria and parameters under which future potential sand sources will be evaluated. If a particular sand source meets the criteria, placement of that sand will be able to be approved by the Executive Director under the subject permit. If any particular sand source falls outside the criteria outlined in the permit, or any other potential risks to coastal resources are identified by Commission staff for a particular project, a separate Coastal Development Permit (CDP) or amendment would be required. The City must submit a Project Notification Report (PNR) for each proposed opportunistic sand project for review and written approval by the Executive Director before the City will be authorized to commence construction of that individual project. After a project is completed, the City must compile and submit a Post-Discharge Report that includes all of the information collected by the City for the individual project in addition to an assessment of the project effects, both beneficial and adverse, in order to serve as the basis for any modifications that can be made to optimize the program.

The only change requested by the City is in regard to the permit term. The City has historically requested 5-year extensions to its original SCOUP permit, which is consistent with Commission approvals for other SCOUP programs in Southern California. However, the City is now requesting a 10-year permit term, given the limited number of projects actually implemented under the SCOUP program. The Commission recently approved a very similar opportunistic sand replenishment permit for the City of Solana Beach (CDP No. 6-08-038-A3) that established a 10-year permit term with a requirement that the City of Solana Beach submit a changed conditions report after five years, given that it is possible that conditions may change over time and additional monitoring or placement parameters may be necessary to ensure that coastal resources are adequately protected.

## Encinitas SCOUP History

The City of Encinitas conducts local beach replenishment projects permitted under the Sand Compatibility and Opportunistic Use Program (SCOUP). The purpose of the program is to provide enhanced public recreational opportunities and public access at the City's beaches, and to increase protection of public property and infrastructure at risk from shoreline erosion. The program is designed to capitalize on opportunities to obtain surplus sand from upland construction, development, or dredging projects as they arise, and to place the sand along the shoreline through a streamlined process, instead of losing the material to an inland disposal site due to the sometimes lengthy processing time for necessary permits from the various agencies.

The original permit was first approved by the Commission in August 2009 for a 5-year period and only included Batiquitos Beach and Moonlight Beach. In August 2014, the permit was amended to extend the permit duration for five years and add two additional receiver sites, Leucadia Beach and Cardiff Beach (CDP No. 6-08-110-A2). CDP No. 6-08-110-A2 also reduced and defined the maximum volume of sand that could be placed at each of the receiver sites and shortened the window of time each year that sand could be placed from September 15<sup>th</sup> through May 31<sup>st</sup> (8.5 months) to September 15<sup>th</sup> through February 28<sup>th</sup> (5.5 months). The amendment also added additional requirements for documenting the volumes and locations of all sand placed and documenting available Marine Protected Area (MPA) studies, required twice-annual beach transect monitoring data, and required an evaluation of potential impacts to adjacent lagoon systems. In October 2019 the Commission approved CDP No. 6-08-110-A3 that approved a 5-year extension, extended the window of time each year that sand could be placed to September 15<sup>th</sup> through May 28<sup>th</sup> (8.5 months) to allow for additional flexibility in the receipt of sand sources. This allowed placement during the grunion season (March 1<sup>st</sup> to May 28<sup>th</sup>), western snowy plover breeding season (March 1<sup>st</sup> to August 31<sup>st</sup>), and California least tern breeding season (April 1<sup>st</sup> to September 15<sup>th</sup>). Therefore, new conditions were added that included the development of monitoring and avoidance plans for grunions, western snowy plovers, and California least terns.

Since the original approval, the City has conducted several replenishment projects under the program. In 2010, the City placed 5,300 cy of sand from an upland source onto Moonlight State Beach (Scripps Memorial), and in 2011, the City placed 300 cy of sand from an upland source onto Moonlight State Beach (Saxony Detention Basin). In 2019, the City placed 40,000 cy of sand onto Batiquitos State Beach (Encinitas Beach Resort), and from December 2021 through April 2022, the City placed a total of 67,944 cy of sand onto Cardiff State Beach and Moonlight State Beach (Caltrans I-5 Bridge Replacement).

Reports such as Project Notification Reports (PNR) and Post-Discharge Reports submitted by the City in compliance with past permits document that recent beach replenishment projects have not resulted in negative impacts to the monitored coastal resources such as beach profiles, surfing conditions, turbidity, sediment gradation, or grunions. PNR's have also stated that potential cumulative impacts of the sand

replenishment projects in combination with past, present, and reasonably foreseeable beach nourishment projects in the City are anticipated to be negligible.

### Encinitas Sand Replenishment History

The Encinitas SCOUP program is part of a broader collaborative effort by state, federal and local and regional entities to address coastal sediment management issues and develop strategies to streamline sediment management. The San Diego Association of Governments (SANDAG) has prepared strategies and plans over the years identifying regional coastal areas with critical shoreline problems and recommendations to address issues, such as the San Diego Coastal Regional Sediment Management Plan (CRSMP). The San Diego CRSMP identified several types of beach nourishment that have been and are being implemented in the San Diego region, including local SCOUP programs, lagoon and harbor maintenance programs, and larger-scale regional beach sand projects.

The Commission has approved a number of beach replenishment projects, including opportunistic replenishment projects within the City of Encinitas, over the past approximately 26 years. Sand placement project volumes in Encinitas have ranged from as little as 300 cy to as much as 455,000 cy. Notable replenishment projects include: the Regional Beach Sand Project 1 (RBSP 1) which placed 455,000 cy of sand at the four Encinitas receiver beaches in 2001, and the Regional Beach Sand Project 2 (RBSP 2) which placed 287,000 cy of sand at three Encinitas receiver beaches in 2012. Other sand placement projects include periodic dredging of the Batiquitos Lagoon, the San Elijo Lagoon and associated sand placement. More recently in March-April 2024, the U.S. Army Corps of Engineers' Encinitas-Solana Beach Coastal Storm Damage Reduction Project (CD-0203-13) placed 346,939 cy of sand on beach receiver sites within Encinitas.

### Sand Placement Methodology

The proposed amendment would not change the previously approved sand placement methodology. As such, a brief summary of the methodology will be provided here, but a more in-depth description can be found in the staff report for CDP No. 6-08-110-A3. Beach sand is proposed to be placed in three ways: 1) as a beach berm, 2) directly into the intertidal area, or 3) piped onto the beach from a dredge. The Encinitas Beach Resort project placed sand directly into the intertidal area on Batiquitos Beach in 2019, and the I-5 Project placed sand on Cardiff Beach and Moonlight Beach via dredging and delivery directly into the intertidal area via truck.

The maximum number of truck trips that could be incorporated into the project for any of the receiver sites is calculated to be 157 trips per day. Based on the total volume of 117,000 cy for Batiquitos Beach, optimized project duration would be approximately 10 weeks for this receiver site. Similar calculations forecast that optimized project durations for the other receiver sites would be: Moonlight Beach ~ 9.5 weeks, Leucadia Beach ~ 12 weeks, and Cardiff Beach ~ 9.5 weeks. Construction activity would be restricted to occur between 7:30 AM and 7:30 PM, Monday through Friday; no work would occur on the weekends.

The City of Encinitas has a certified Local Coastal Program. The proposed project will be located both seaward of the Mean High Tide Line (MHTL) within the Commission's original jurisdiction and landward of the MHTL within the City's coastal permit jurisdiction, including access points to the beach and staging areas. The City has requested that the subject application be consolidated to include all portions of the project within its jurisdiction so as to authorize the Commission to approve the project in its entirety. Section 30601.3 authorizes the Commission to process a consolidated CDP application when requested by the local government and the City (as applicant) and approved by the Executive Director for projects that would otherwise require a CDP from both the Commission and from a local government with a certified LCP. The policies of Chapter 3 of the Coastal Act provide the legal standard of review for a consolidated CDP application submitted pursuant to Section 30601.3, with the local government's certified LCP used as guidance. Accordingly, this consolidated CDP covers all of the proposed development, and no separate CDP will be required from the City.

## **B. Biological Resources and Water Quality**

The following Coastal Act policies are applicable and state, in part:

### Section 30230

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

### Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff...

### Section 30233

(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:

(6) Restoration purposes.

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

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.

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

[...]

### Biological Resources

The Commission supports and has viewed beach replenishment as a means to address loss of public access and recreation and to protect property. However, the Commission also acknowledges that there are potential adverse ecological consequences of beach replenishment. Beach replenishment is often considered the most environmentally sound method of maintaining eroding shorelines and is often considered habitat creation. However, fill activities may cause intense disturbance and high mortality and have the potential to alter the diversity, abundance, and distribution of intertidal macroinvertebrates for months to years. Ecological recovery following fill activities depends on successful recolonization and recruitment of the entire sandy intertidal community. With this understanding, the Commission has been and is reviewing beach replenishment projects, including the permit amendments for this program, in terms of potential ecological impacts, and applying special conditions to avoid and minimize both physical and biological impacts to the sandy beach ecosystems.

The Coastal Act policies identified above require the Commission to address impacts on marine resources by considering the timing of deposition of the material on the beach, the composition of the material, the location of the receiver beach, and the presence of environmentally sensitive resources. Development in areas adjacent to sensitive marine habitat areas, marine parks, federal and state MPAs and recreation areas, such as beaches, must be sited and designed to prevent impacts which would significantly degrade those areas. The restoration of beaches is a permitted use to dredge in open coastal waters under Section 30233(a)(6); however, the project must be the least environmentally damaging alternative, and should avoid and minimize impacts to coastal resources, and any impacts that cannot feasibly be avoided must be mitigated.

This amendment does not increase the volume of sand being placed onto the four beach receiver sites. The sand will supplement the sediment supply, help stabilize beaches, and will reduce the deficit in the sediment budget within the littoral cell. However, this project raises several biological resource concerns related to population dynamic shifts, altering the physical beach environment and potential shifts in ecosystem species composition in the beach and nearshore environment. Such adverse impacts from sand placement may result over the long term.

Another concern raised by the project is the indirect effects from where and how much material will be transported by waves through the littoral system, and the resultant potential to temporarily or permanently affect sensitive marine habitats, which, in Encinitas, consist of rocky intertidal and nearshore reefs that support surfgrass and giant kelp habitat. The introduction of large volumes of sand on these reef communities could potentially cause habitat conversion and alteration of ecological community dynamics. In addition, increasing turbidity in adjacent waters could adversely affect the growth of kelp and surfgrass and the foraging ability of many marine animals, including shore and seabirds. The project area also contains Essential Fish Habitat (EFH), which can suffer adverse impacts as a result of beach replenishment projects.

To address the potential impacts to biological resources, the City will continue to implement all projects constructed under the beach replenishment program consistent with the parameters detailed in the Project Notification Report Template ([Exhibit 3](#)), and will submit a revised Final Project Notification Report Template that accurately reflects the current project parameters and reporting requirements imposed by the added special conditions as of CDP No. 6-08-110-A3 and this current amendment (**Special Condition No. 1** as amended). It is important that the Project Notification Report Template is current and up to date because it is a detailed framework for the program and the required PNR's that are submitted for review by the Executive Director of the Commission prior to implementation of each beach replenishment project. The Project Notification Report Template includes parameters for maximum sand placement volumes for each site during a five-year term, types of approved sand placement methods, seasonal restrictions on sand placement, physical and chemical sand parameters, trash and debris management, transport and traffic management, water quality best management practices, and public notification. Also, each PNR is to include a summary of past and foreseeable beach replenishment projects in the City, identification of the report submittal requirements, and the City's assumption of risk statement for each beach replenishment project. The Project Notification Report Template further details the pre-, during, and post-construction monitoring requirements for each beach replenishment project including, but not limited to, current biological conditions of the project's receiver beach(es), surfing, turbidity, sand grain size and sand contaminants, traffic, and trash and debris. The submitted PNR's include such monitoring requirements and plans, and Post-Discharge Reports include the results of the project monitoring. Having an updated Project Notification Report Template that memorializes all requirements imposed by the Commission through each amendment will ensure that all parties are aware of current requirements.

In sum, parameters for maximum sand placement volumes over a five-year term, sand grain size, timing of sand placement, and post project monitoring will continue to reduce impacts to beach and nearshore organisms to the greatest extent feasible. In addition, due to the dynamic nature of the intertidal and beach environment, small-scale beach nourishment projects such as those proposed by the City, may result in short term impacts to the sandy beach environment; however, over the long term, impacts are expected to be less than significant from small-scale beach nourishment projects. Because the City is requesting a longer term than previously approved, **Special Condition No. 14** requires the City to submit a Changed Conditions Report after five

years. This interim report shall be based on the results of any Project Notification Reports and Post-Discharge Reports completed pursuant to this CDP and the associated monitoring, and provide a summary and analysis of whether adverse impacts from opportunistic sand nourishment have been detected by available studies that focus on nearshore reef systems located within or adjacent to the City beach boundaries and by available beach transect data also within or adjacent to the City beach boundaries. The City may use project data and any existing data or reports on Swami's SMCA and Cardiff Reef regarding habitat types, acreage, and/or species, and fishery and special status species, and data or reports on beach monitoring data. For instance, the Baseline Information Report and Existing Conditions Report submitted pursuant to past special conditions, may be used in the analysis if appropriate. If there are no changed conditions or unanticipated significant adverse impacts on coastal resources or public access, then the program may continue for the additional five years. If the Executive Director (ED) determines that there are changed conditions or adverse impacts, a new CDP or amendment may be required.

The Project Notification Reports and Post-Discharge Reports required for each sand replenishment project and the Changed Conditions Report required to be submitted at year five will provide useful information to identify potential impacts related to beach replenishment projects in the City. As conditioned by the underlying permit, if monitoring shows adverse impacts resulting from increased sand on adjacent reefs or if maximum placement limits are proposed to be exceeded, an amendment to the permit will be required that may include more intensive nearshore reef monitoring.

#### Existing Conditions

The four beach receiver sites that are part of this program are the same as the beaches studied and used for the RBSP 1 and RBSP 2. Thus, the subject and proposed beach replenishment program relies heavily on the environmental analysis for those previous sand replenishment projects. The Environmental Assessment/Environmental Impact Report (EA/EIR) for RBSP 1 and 2 describe the existing conditions of each of the four beaches, but generally, all four of the existing receiver beaches are composed of predominantly soft-bottom sandy habitat. However, hard-bottom reef habitat is also located between 150 ft. and 1,200 ft. from the receiver beaches. Hard-bottom habitats support a variety of plants and animals, which can be adversely impacted by significant increases in sand levels. Water conditions in the project area are typically clear, with occasional storms or algal blooms causing turbidity. Fish-eating birds, such as the California brown pelican and California least tern could be impacted in the vicinity of the site by temporary reduction in their prey base if fish move away from the turbidity plume. In addition, fish habitat may be adversely impacted through the creation of turbidity plumes and/or the introduction of contaminants. However, the proposed opportunistic beach fill program is designed to facilitate small-scale beach replenishment projects that are not expected to result in substantial turbidity. A more in-depth discussion of the existing conditions can be read in the staff report for 6-08-110-A3.

As proposed, the opportunistic sand program will most likely result in a series of smaller volume projects as opposed to one large project that reduces the likelihood of the occurrence of impacts from increased sedimentation of the nearshore reefs. Monitoring

will continue under the proposed amendment, with some minor changes. **Special Condition No. 11** as amended requires that the PNR and Post-Discharge Reports include a biological conditions section that describes the existing conditions of the proposed beach receiver site(s) to help monitor conditions, but removes the requirement for an in-depth analysis of whether impacts have been detected for all available MPA studies that focus on nearshore reef systems located within or adjacent to the City beach boundaries due to the infrequency of implemented SCoup projects, their small scale, and the absence of such analyses in submitted reports. Instead, **Special Condition No. 14** requires a robust analysis of impacts from increases in sand levels to nearshore habitats and organisms, further discussed below in the Nearshore Monitoring section.

### Past Monitoring Studies

Various monitoring studies have been conducted on the City of Encinitas beaches and nearshore habitats. The most comprehensive dataset of the spatial extent of hard-bottom and vegetated habitats is the “2002 Nearshore Program Habitat Inventory GIS.” This dataset was supplemented in 2007 with a survey of coastal reef habitat for Encinitas and Solana Beach to support the environmental review needed for the U.S. Army Corps of Engineers (USACE) Encinitas-Solana Beach Coastal Storm Damage Reduction Project. The 2007 survey characterized reefs according to occurrence and/or relative abundance of biological indicator species, which included surfgrass, giant kelp, feather boa kelp, sea palm, and sea fans. Other studies have reported low-quality non-vegetated rock and rock with algal turf or crust, and bottom dwelling (demersal) fish and invertebrate species (clams, brittle stars, anemones, crabs, sand dollars, sea cucumbers, sea pansies, sea pens, sea stars, sea urchins, snails, tube worms, Pismo clams).

In addition to the nearshore habitat studies described above, various monitoring of sandy beach locations in the City of Encinitas after sand placement, such as for RBSP 1, have found: an increase in sandy beach habitat as opposed to cobble cover which resulted in a positive influence on invertebrate assemblage and increased bird abundance at receiver sites; no clear evidence of adverse impacts resulted from a beach replenishment project, but the results of the nearshore monitoring were inconclusive; it was difficult, if not impossible, to distinguish RBSP 1 effects from the effects of simultaneous projects in the region; continuing intertidal monitoring for a longer period of time was recommended to better identify impacts; and adverse impacts of increased sedimentation at sites caused by RBSP 1 could not be determined due to multiple other replenishment projects in the area and/or due to the relatively short monitoring duration.

The inconclusive findings of the prior monitoring effort following RBSP 1 illustrate the importance of additional monitoring following both small scale and large-scale beach replenishment projects. Thus, the previous SCoup approvals required additional monitoring to establish a baseline condition and reassess the existing conditions. In conformance with the required conditions, the City submitted *The City of Encinitas Opportunistic Beach Fill Program, Baseline Information Report and Biological Resources Condition Report Guidance* (CDP No. 6-08-110-A2 Special Condition No. 5)

and *Existing Conditions Monitoring Report for CDP No. 6-08-110-A3 City of Encinitas OBFP for Specific Condition No. 11* (CDP No. 6-08-110-A3 Special Condition No. 11). The Existing Conditions Report included the pre- and post-construction monitoring results from the 2019 Encinitas Beach Resort project and the I-5 Berm Opportunistic Beach Fill project in 2022 and the monitoring and mapping of sandy beach, rocky intertidal and rocky subtidal reef ecosystems in Encinitas, and concluded that “based on the surveys attached, the biological community remains intact with the beach nourishment.” In order to continue monitoring the sand replenishment projects and the nearshore habitats, **Special Condition No. 14** requires the City to submit a Changed Conditions Report five years after Commission approval that summarizes and analyzes the project monitoring data and existing reports and data, to assess any impacts resulting from sand placement through this permit. Pursuant to Special Condition No. 11 of the underlying permit, the City is also required to contact the California Department of Fish and Wildlife to coordinate future beach nourishment projects in the City and to discuss whether the MPA survey protocols are designed such that data could be used to detect potential adverse impacts sand replenishment.

### Nearshore Monitoring

Various studies have been undertaken to evaluate the biodiversity and function of California’s Marine Protected Areas (MPA) by comparing areas inside MPAs to immediately adjacent outside areas. The studies, including at Swami’s SMCA, have been completed pursuant to the “South Coast MPA Baseline Program.” Multiple studies that monitored the nearshore area of the City and provide useful information related to beach replenishment impacts were used to compile the Baseline Information Report. Such studies including SANDAG’s RBSP I & II; San Diego Coastal Regional Sediment Management Plan; the U.S. Army Corps of Engineers Encinitas-Solana Beach Coastal Storm Damage Reduction Feasibility Study; and the MPA South Coast Region Baseline Program studies.

The staff report for 6-08-110-A3 has an in-depth summary of the nearshore monitoring results discussed in the Baseline Information Report, but generally, sandy beach habitats surveyed prior to RBSP 1 showed that the proposed receiver sites had shallow sand depths, extensive to moderate cobble coverage and/or exposed bedrock, and reduced invertebrate communities. Surveys conducted two to four years after RBSP I showed greater persistence in sand depths and invertebrate community development across seasons at receiver sites, as well as evidence of indirect nourishment on downcoast beaches. Surveys conducted eight to nine years after RBSP I, but prior to RBSP II indicated a return to more seasonal habitat differences, although sand levels were not as erosive as observed prior to RBSP I. Sand has also been placed in the vicinity or at the same receiver sites (Batiquitos, Moonlight, and Cardiff) through lagoon dredging and the opportunistic beach fill program since RBSP 1 and RBSP 2. While sand placement has the potential to directly impact invertebrate communities, available surveys indicate that effects are short-term, and no long-term adverse effects on sandy beach habitat or resources from the sand placement activities have been reported. Non-receiver sites located approximately 1,000 feet downcoast of the Leucadia and Cardiff receiver sites have shown evidence of indirect nourishment.

The underlying permit requires that the City submit a report which summarizes all available findings of MPA studies within or adjacent to the City's beaches as part of each PNR and on an annual basis if a project is implemented during a given year. The purpose of this requirement was to monitor for adverse impacts. If the studies showed adverse impacts to the MPAs had occurred as a result of changed sand levels or coverage on the nearshore reefs, mitigation may have been required and/or more intensive nearshore monitoring may have been required. Four specific MPA studies from the MPA South Coast Region Baseline Program are listed as studies the City was to use in the Project Notification Report Template. However, it appears that the specific studies cited in the Project Notification Report Template and the MPA South Coast Region Baseline Program ended in 2017 and the full results are not readily available. As such, **Special Condition No. 1** as amended requires the City to submit a revised final Project Notification Report Template that revises the Project Monitoring section and removes the four specific MPA studies and replaces them with monitoring data and reports regarding status of and changes in nearshore habitat types, acreage, and/or species, and special status and fishery species in Swami's State Marine Conservation Area (SMCA) and Cardiff Reef that can be used when the City compiles the biological conditions section of the PNR and Post-Discharge Reports. The revised Project Notification Report Template, in addition to **Special Condition No. 6** as amended, will also remove the requirement of submitting an annual report if a project is implemented. This will streamline the monitoring report requirements of the projects. Instead, a more robust analysis and discussion of the implemented projects, their monitoring data, and data on the Swami's SMCA and Cardiff Reef and beach profiles will be required in the Changed Conditions Report (**Special Condition No. 14**).

An additional resource identified by the City that can help to determine impacts of beach replenishment on nearshore reef habitat is the SANDAG beach transect monitoring program. This monitoring program, which has been ongoing since 1996, provides profiles of shoreline perpendicular transects conducted on many San Diego County Beaches from the U.S.-Mexico Border to Oceanside Harbor. The Project Notification Report Template requires that the City provide available beach transect information and sand volumes of all beach replenishment projects implemented in the City. The Changed Conditions Report required by **Special Condition No. 14** also requires the same data to be reported in addition to analysis of the beach transects. Although these beach transects cannot provide a precise accounting of impacts from nourishment projects on the nearshore reef habitat, they are a useful tool to assist in identifying emerging issues. If future transects show a drastic increase in sand levels or if the transects go from choppy (reef) to smooth (sand) at the reef locations it may indicate that the nearshore reef habitat has been covered.

#### Marine Protected Areas (MPA)

Swami's State Marine Conservation Area (SMCA) is located directly offshore of the southern portion of Encinitas and covers the area from the mean high tide line to the 3 nautical mile maritime limit ([Exhibit 2](#)). The portion of the Cardiff receiver site seaward of the MHTL and the southern portion of the Moonlight receiver site seaward of the MHTL are located within the Swami's SMCA. The Batiquitos and San Elijo Lagoons are

classified as State Marine Conservation Areas (SMCAs) and are located in close proximity to the proposed receiver sites.

The subject project has been designed and sited to avoid impacts to sensitive habitats, and as conditioned, significant impacts to biological resources are not anticipated. The project will enhance recreational beach areas by increasing the sandy beach area available for public use. The Project Notification Report Template includes a requirement that any inadvertent impacts to sensitive habitat areas by the proposed development shall be reported to the Executive Director within two weeks of occurrence and shall be mitigated. Such mitigation shall require an amendment to this permit or a new permit unless the Executive Director determines that no amendment or new permit is legally required. Additionally, robust analysis of project impacts to Swami's SMCA is being added as part of **Special Condition No. 14** Changed Conditions Report.

The California Department of Fish and Wildlife (CDFW) has previously expressed concerns about habitat conversion within the SMCA, the use of sands with fines greater than 10% at Leucadia and Cardiff Beaches, and that placement of sand directly on intertidal reef habitat may have adverse impacts to those subject reef systems. These concerns have been addressed in past amendments and are reflected in the project parameters and permit limits.

#### Lagoon Impacts

Batiquitos Lagoon is located on the north edge of the City and San Elijo Lagoon is located on the south end. Shoaling of lagoon mouth entrances is another possible adverse impact resulting from beach replenishment projects. To ensure that the adjacent lagoons are not adversely impacted by beach replenishment projects, Special Condition No. 6 requires that the City coordinate with the managers of the Batiquitos and San Elijo Lagoons to develop a protocol that could identify additional sand entering the lagoons as a result of beach replenishment and would require that the City compensate the lagoon managers for any additional maintenance efforts needed as a result of these elevated sediment levels. The permit also requires that the City submit evidence of this consultation and agreement to the Executive Director of the Commission. The City will also submit an update on lagoon shoaling and necessary dredging activities as a part of each Project Notification Report submittal. While no substantive changes are being proposed for **Special Condition No. 6**, the requirement to submit an annual report (which would have included a summary of shoaling) is being removed. Instead, the Changed Conditions Report and Project Notification Report(s) will include updates on lagoon shoaling and necessary dredging activities.

#### Grunion, California Least Tern and Western Snowy Plover

The project as conditioned allows sand placement to occur from September 15<sup>th</sup> through May 28<sup>th</sup> which overlaps with grunion spawning season (usually March through August), and breeding and nesting seasons for California least tern and western snowy plovers (April – September and March-August, respectively). Monitoring for grunion and implementation of impact minimization measures are required when beach nourishment is scheduled to overlap or follow within two weeks of a grunion spawning event (Special

Condition No. 9), and Special Condition No. 10 requires monitoring and an avoidance plan to prevent disruption to the avian species during nesting and breeding season by implementing avoidance measures if roosting, false brooding, or mating and nesting behaviors are observed within 500 feet of project sites. **Special Condition No. 1** as amended requires the revised Final Notification Report Template to add grunion monitoring and avoidance, and avian monitoring and avoidance to the table summarizing project design and monitoring actions to ensure consistency, but otherwise no changes to required monitoring or mitigation is proposed.

### Sediment Analysis

No changes to the measures previously required and intended to protect biological resources and water quality during sand placement are proposed. As proposed, the Project Notification Report Template specifies the maximum proportion of fine-grained particles to total volume that could be placed on the beach under a variety of scenarios. The Project Notification Report Template also specifies the maximum proportion of large-grained material that can be placed as a percentage of total project volume. The intent of the sand grain size conditions is to match, to the greatest extent feasible, the source sand characteristics to the native beach sand characteristics. Further, restricting the silt and clay content to a maximum of 10 to 20% (depending on receiver site and total project sand volume), reduces the potential for significant impacts to biological resources or water quality. If any particular sand source falls outside the criteria outlined in the Project Notification Report Template, or other potential risks to coastal resources not identified and discussed in this report are identified by Commission staff, a separate CDP or amendment to the subject permit would be necessary. Nevertheless, turbidity will be monitored throughout construction to quantify the effect on ocean water clarity from the project.

After a sand placement project is completed, all of the pre- and post-construction surveys and monitoring as detailed in the Proposed Notification Report are required to be submitted as a final report to the Executive Director to evaluate the impact of the particular project and to aid in the review of future projects under the subject permit. After a beach fill project is completed, a Post-Discharge Report will be prepared and submitted to the Executive Director and other resource agencies, which will include all of the information collected by the City for the project, including all preparation testing, volume of material placed at the site, transportation and construction details, finalized project schedule, and monitoring results.

### Construction Equipment and Water Quality

No changes to the measures previously required and intended to protect biological resources and water quality during sand placement are proposed. Construction equipment used for the project has the potential to contaminate the sand from minor spills and leaks from equipment. As proposed, construction material cannot be washed on the beach or in beach parking lots. Among other requirements included in the Project Notification Report Template, construction debris and sediment shall be properly contained and secured on-site with Best Management Practices (BMPs) to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain, or

tracking. In addition, the Project Notification Report Template identifies that a full-time on-site debris monitor will be present during excavation and loading of trucks and at least once per day will monitor the beach during beach replenishment. If any debris or any unusual, non-sand material is detected, the City proposes to halt the specific sand placement until the sand can be examined and tested to assure its quality is consistent with the parameters of acceptable material. Therefore, as proposed, no significant impacts to water quality are expected.

As stated in the Project Notification Report Template, copies of permits from other agencies, including the California Regional Water Quality Control Board and the Army Corps of Engineers are required to be submitted to the Executive Director. Should any project modifications be required as a result of other permits, the Project Notification Report includes an acknowledgement that an amendment to this permit may be necessary.

### Conclusion

In summary, the subject program, as amended, has been designed to minimize potential environmental impacts to the greatest extent feasible and, as conditioned, is not anticipated to have any impacts inconsistent with Coastal Act Sections 30230, 30231, or 30233. The subject program will be implemented the same as previously permitted. The proposed changes to the permit are updating the Final Project Notification Report Template so that it accurately reflects the current project parameters and reporting requirements as required by the special conditions, remove the requirement to submit an annual report, replace the four specific MPA studies with more general existing data and reports, and instead of submitting an analysis of the sand replenishment projects and their potential impacts in the PNRs and Post-Discharge Reports, require such analysis in the newly submit a Changed Conditions Report. The Changed Conditions Report required to be submitted five years after Commission approval will provide a robust summary and analysis of the implemented projects and the potential impacts to the beaches and nearshore habitats located within or adjacent to the City beach boundaries. Monitoring of the beach sand profile, shoaling at lagoons, surfing conditions, turbidity, sediment gradation, grunion, birds, traffic, trash and debris is required for each project undertaken pursuant to the beach replenishment program. All impacts will be identified through the proposed monitoring and any unanticipated impacts will require submittal of an amendment to this permit to allow the Commission to consider additional mitigation measures for the project. As proposed and conditioned, sufficient information will be available to the Executive Director to analyze and evaluate new beach sand replenishment projects under the parameters of the proposed permit, and written approval from the Executive Director is required prior to the initiation of any work for individual sand placement projects. As conditioned, the Commission finds that the proposed project minimizes environmental impacts, and if significant impacts do occur despite all precautions, they will be identified and adequately mitigated through a new CDP or CDP amendment. Therefore, the proposed project can be found consistent with the resource protection policies of the Coastal Act.

### **C. Public Access and Recreation**

Many policies of the Coastal Act address public access. The following are most applicable to the proposed development and state, in part:

Section 30210:

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.

Section 30211:

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

Section 30212:

(a) 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...

Section 30213:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred....

Section 30214(a):

(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.

Section 30220:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30233(b):

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.

Section 30240:

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

In addition, the certified Encinitas LCP, which is used as guidance for the subject application request, includes policies encouraging sand replenishment projects:

Land Use Policy 8.6:

The City will encourage measures which would replenish sandy beaches in order to protect coastal bluffs from wave action and maintain beach recreational resources. The City shall consider the needs of surf-related recreational activities prior to implementation of such measures.

Land Use Policy 10.3:

The City shall explore the prevention of beach sand erosion. Beaches shall be artificially nourished with excavated sand whenever suitable material becomes available through excavation or dredging, in conjunction with the development of a consistent and approved project. The City shall obtain necessary permits to be able to utilize available beach replenishment sands (as necessary, permits from the Army Corps of Engineers, California Coastal Commission, Department of Fish and Wildlife, EPA, etc.).

Public Access

The shoreline in the City of Encinitas consists of narrow beaches which primarily front coastal bluffs, and the City's coastal zone supports multiple uses, including beaches, state parks, residences, and businesses. On the whole, the shoreline and beaches are valuable assets to the environment and economy of the Southern California region and the state and are worthy of protection and enhancement. Beach erosion has been an increasing problem in the Southern California region, and in many past projects the Commission has identified beach replenishment as a means to preserve and enhance the recreational capacity and property protection for the region's shoreline. Additional sand on beaches increases the amount of recreational area available for public uses and provides a buffer (a wider beach) between waves and adjacent public and private development, thereby reducing pressure to construct shoreline protective devices which can adversely affect the visual quality of scenic coastal areas, shoreline sand supply, public access to the beach, and beach ecology. Moreover, the effect of sea level rise on the California Coast will be the landward migration of the intersection of the ocean with the shore, leading to a faster loss of the beach, as the beach is squeezed between the landward migrating ocean and the fixed backshore. This will expose the back bluff or the armored shoreline to more frequent wave attack, increasing the rate of erosion of unarmored bluffs and potentially reducing available usable beach area. Increased sand can help relieve the coastal squeeze.

The project is expected to have some temporary adverse impacts on public access and recreation. The deposition sites are popular public beaches and are currently used for various recreational activities including swimming, surfing, fishing, diving, sunbathing and jogging/walking. During sand placement activities, the beach fill site would have to be closed, creating a temporary adverse impact on recreation. The impact might be significant during higher tides or for projects where the entire beach area would be closed to the water line such that people could not get past the work area to the rest of the beach, except by traveling inland around the placement areas. In addition, the project could have an adverse impact on public access and recreation if sand placement-related vehicles significantly impacted the ability of the public to reach the shoreline. Overall, access corridors and staging areas are required to be located in a manner that has the least impact on public access and traffic flows on coastal access routes. All staging will utilize public parking areas. Since the proposed haul routes utilize some of the City's primary coastal access routes, traffic could be adversely affected.

No changes to the measures previously required and intended to protect public access and recreation during sand placement are proposed. Sand placement activities will continue to be limited to Monday through Fridays, excluding holidays, and can only occur between September 15<sup>th</sup> and May 28<sup>th</sup> of each year of the permit term, which avoids peak summer use of beaches by the public. Use of public parking areas for staging is not expected to adversely impact public access because all work will occur in the fall and winter and will avoid peak beach use seasons.

In practice, individual replenishment projects have been infrequent and deposited much less sand than the maximum amount allowed, therefore limiting construction-related impacts. In addition, these receiver sites represent a small portion of available beach access in the City, and the public will continue to have access to beaches north and

south of the deposition sites and on weekends and holidays. Thus, as proposed the project has been designed to minimize adverse impacts to the beach-going public. Based on the limited number of opportunistic projects that have actually occurred since the program was approved in 2009, it is unlikely that future projects will result in significant access or recreational impacts to the public.

The project will also continue to implement a public notification package to inform the public prior to the initiation of any sand replenishment project, which will help reduce the potential impact the project could have on access. The public notification measures do not specifically include a requirement for a public hearing on each individual opportunistic sand project; however, all new development that might be associated with sand removal activities within the City of Encinitas requires local approvals, which would then require public notification. Therefore, any development within the City of Encinitas that includes the export of opportunistic sand to be placed on the beach will have public notice. In addition, the City is required to post a notice at the beach where placement will occur with information about project scope, expected dates of construction, and/or beach closure. In the past, the City has also posted additional notifications on the City's social media pages. To further ensure the public is aware of any pending placements, **Special Condition No. 1** is amended to require the City to post information about placement on their website, which shall also include the results of the material testing.

Thus, any local concerns on individual construction projects that become the source of beach quality sand will be able to be addressed prior to the Executive Director's review. As proposed, all written correspondence received by the City regarding the project and minutes of the Planning Commission/City Council meetings will be included in the Project Notification Report for the Executive Director's review. To further limit adverse impacts on access, each construction site will be posted with a notice indicating the expected dates of construction and/or beach closures. Thus, the public will have adequate opportunities to be notified of and provide input on future replenishment projects.

Finally, Section 30604(c) of the Coastal Act requires that a specific access finding be made in conjunction with any development located between the sea and the first public roadway, indicating that the development is in conformity with the public access and public recreation policies of Chapter 3. In this case, such a finding can be made.

### Surfing

No changes to the measures previously required and intended to protect public access and recreation during sand placement are proposed. Surfing occurs throughout the project area, and surfing could potentially be impacted not only by restriction of access to the water during construction, but through the modification of existing sand bars and reefs by sand placement and deposition, and poor water quality caused either by turbidity generated during and after construction, or contaminants being released into the surf zone by the fill material.

To address adverse impacts to surfing, the permit will continue to require that all potential sand sources are tested to verify that the sand is free of contaminants prior to

placement on any beach fill site. The City must also perform background research of the potential for the material to possess contaminants based on Tier I testing protocol as specified by the Army Corps of Engineers and the Environmental Protection Agency. Therefore, adequate measures would be in place to prevent contamination and to preserve water quality. The City is also required to conduct and have ready monitoring protocols and contingency operations for monitoring turbidity and surfing effects during and after construction. Monitoring results included in submitted Post-Discharge Reports have not indicated significant adverse impacts to turbidity or surfing, but the continued monitoring will provide information that will allow future projects to more accurately assess and avoid impacts. No changes to this process are proposed as part of this amendment.

As proposed, general recreation and access impacts (both positive and negative) will continue to be evaluated in the Post-Discharge Report to aid in the review of future nourishment projects under the subject program. If impacts are identified, any project modifications to address these impacts must first be submitted to the Executive Director in order to determine whether the proposed remedies are authorized under this CDP or whether the work shall require either an amendment to this permit or a new permit.

#### Conclusion

In summary, the proposed project will have short-term and temporary impacts on public access and recreation due to reduced beach access in the construction area, use of public parking areas for staging, and potential impacts to surfing. These impacts have been minimized by restrictions and conditions on the timing and amount of work that can occur and through required surf and turbidity monitoring conditions. The project overall is expected to have a positive impact on the beaches in Encinitas as well as to the entire littoral system by adding more sand to the beach that can be used for increased recreation and public access and by decreasing the erosion of adjacent bluffs. The proposed sand monitoring program will continue to provide information regarding the short and long-term effects of beach replenishment, including how long the sand remains on the beach at different sites in different conditions. **Special Condition No. 12** limits the duration of the amendment to 10 years and **Special Condition No. 14** requires a Changed Conditions Report to be submitted after five years and include a summary of the effectiveness of the CDP in meeting project objectives, including in terms of maintaining public coastal access. Furthermore, evaluation of the impacts will occur should the City request to extend the program. Therefore, as conditioned, the proposed project can be found consistent with the public access and recreation policies of the Coastal Act.

#### D. Hazards

Section 30253 of the Coastal Act states, in part:

New development shall:

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

According to the most recent best available science, by the year 2100, sea levels in California may rise by 1 to 6.6 feet (0.3 to 2.0 meters) depending on emissions levels<sup>1</sup>. The Commission's 2024 Sea Level Rise Policy Guidance<sup>2</sup> document recognizes beach nourishment as an important nature-based adaptation strategy, or "soft" armoring option in California's coastal adaptation to sea level rise. As described in the Guidance, "soft" armoring generally refers to the use of beaches/beach nourishment, dunes, wetlands, and other ecosystems that adjust to waves and help to reduce erosion and dissipate wave energy while providing other natural benefits. In contrast, seawalls and revetments that block wave energy and shoreline retreat are often termed "hard" structures.

The Sea Level Rise Policy Guidance document recommends that soft solutions such as beach nourishment be used as an alternative to the placement of "hard" shoreline protection in order to enhance natural resource areas. The Sea Level Rise Policy Guidance document also encourages the establishment of beach nourishment programs, similar to the subject beach replenishment program, and protocols in Local Coastal Plans that identify locations where nourishment may be appropriate; establish criteria for the design, construction, and management of the nourishment area; and/or establish measures to minimize adverse biological resource impacts from deposition of material, such as timing or seasonal restrictions and identification of environmentally preferred locations for deposits.

The proposed development is located in an area subject to tidal and wave action. The coastal shoreline environment is dynamic and there are risks associated with development in such areas. For instance, erosion has occurred at the subject beaches where beach nourishment is proposed, and erosion is one form of potential geologic hazard. Coastal erosion in the project area is being exacerbated by sea level rise, and, as such, efforts by local governments and other entities to maintain and restore public beaches are increasing. The fact that the City is proposing beach nourishment to restore pre-existing beaches indicates that erosion does occur. However, the proposed sand placement activities would not increase erosion hazards by restoring the size of beaches, and in fact, increasing the beach width may decrease risks to property. As described above, testing and monitoring of the replenishment material will ensure risks to life and health from potential contaminants are minimized. Therefore, the proposed project minimizes this hazard consistent with Section 30253.

Because there remains an inherent risk to development along the shoreline, the City submits, as part of Project Notification Reports, an assumption of risk, waiver of liability and indemnity that indemnifies and holds harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation,

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<sup>1</sup> The Ocean Protection Council's *State of California Sea Level Rise Guidance 2024 Science and Policy Update* is available at <https://opc.ca.gov/wp-content/uploads/2024/05/California-Sea-Level-Rise-Guidance-2024-508.pdf>.

<sup>2</sup> Available at <https://documents.coastal.ca.gov/assets/slr/guidance/2024/2024AdoptedSLRPolicyGuidanceUpdate.pdf>.

maintenance, existence, or failure of the permitted project. Special Condition No. 13 also clarifies that the Commission is not liable for damage as a result of approving the permit for development.

### **E. Local Coastal Planning**

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made. The City has a certified LCP and will approve any necessary CDP within their jurisdiction for the individual developments that provide for the source of sands. Since portions of the proposed development such as staging areas, access points and sand placement above the MHTL are within the City's coastal permit jurisdiction, the City has requested that all portions of the subject application that lie within the City's jurisdiction be consolidated into the subject permit by the Coastal Commission. Under Coastal Act Section 30601.3, Chapter 3 of the Coastal Act is the legal standard of review for the entire project, and the certified LCP has been used as guidance. As conditioned, the proposed development is consistent with the public access, recreation, and environmental protection policies in Chapter 3 of the Coastal Act. Therefore, approval of the proposed development will not prejudice the ability of the City of Encinitas to continue to implement their certified Local Coastal Program.

### **F. California Environmental Quality Act**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Encinitas adopted the Final Mitigated Negative Declaration for the Opportunistic Beach Fill Program in the Cities of Encinitas, Solana Beach, Coronado, and Imperial Beach in April 2008 (SCH #2008021048), and adopted a Final Mitigated Negative Declaration to Amend the City of Encinitas Opportunistic Beach Fill Program (SCH #2013111057) in February 2014.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing monitoring of biological, physical, and recreational impacts, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## APPENDIX A – CONDITIONS OF APPROVAL

NOTE: Appendix A, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment no. 6-08-110-A4. All of the Commission's adopted special conditions and any changes in the project description proposed by the applicant and approved by the Commission in this or previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on amendment no. 6-08-110-A4 are shown in the following section. Within Appendix A, changes to the previously approved special conditions are also shown in ~~strikeout~~/underline format. This will result in one set of adopted special conditions.

### Permit No. 6-08-110

#### 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 or 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.

#### SPECIAL CONDITIONS

1. **Final Project Notification Report. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for review and written approval by the Executive Director, a final Project Notification Report in substantial conformance with the preliminary Report (attached as Exhibit #12).

The applicant shall comply with the procedures and submittal requirements outlined in the approved Project Notification Report. Any proposed changes to the approved Project Notification Report shall be reported to the Executive Director. No change to the Project Notification Report shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

2. **Approval of Excavation/Dredging Site.** The subject permit is only for sand replenishment projects. All other development proposals that may be involved in obtaining the sand source, including but not limited to non-exempt grading, new construction or dredging, if located within the Coastal Zone, shall require the approval of the Coastal Commission or the applicable local government through a coastal development permit or an amendment to this permit, unless such development is exempt from permit requirements under the Coastal Act and its implementing regulations.
3. **Scope and Term of Permit Approval.** The development authorized by this coastal development permit is limited to beach nourishment that is consistent with the 'Proposed Project Limits' identified in the applicant's submittal including but not limited to the placement sites, maximum annual quantities of beach nourishment, seasonal limitations, and methods of delivery. The authorization for continuing development pursuant to this permit shall expire 5 years from the date of Commission approval.

Permit No. 6-08-110-A2

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 or 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.

## SPECIAL CONDITIONS

1. Special Condition No. 1 of CDP No. 6-08-110 was replaced with the following:

**Final Project Notification Report Template. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the City shall submit for review and written approval by the Executive Director, a final Project Notification Report Template in substantial conformance with the preliminary Project Notification Report Template (attached as Appendix B).

The City shall comply with the procedures and submittal requirements outlined in the approved Project Notification Report. Any proposed changes to the approved Project Notification Report shall be reported to the Executive Director. No change to the Project Notification Report shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

2. [Special Condition No. 2 of CDP No. 6-08-110 remains unchanged and in effect]
3. Special Condition No. 3 of CDP No. 6-08-110 was replaced with the following:

**Scope and Term of Permit Approval.** The development authorized by this CDP amendment is limited to beach nourishment that is consistent with the project limits identified in the preliminary Project Notification Report including, but not limited to, the placement sites, maximum quantities of beach nourishment, seasonal limitations on placement, and methods of delivery. The authorization for continuing development pursuant to this permit amendment shall expire five years from the date of Commission approval of CDP Amendment No. 6-08-110-A2.

4. **Five Year Maximum Sand Placement.** The City and/or any other party may only place up to the maximum volume of sand within of each of the four receiver sites during a five year period extending from the date of Commission approval of the subject CDP amendment. The maximum sand placement volumes for the subject receiver sites during the five year permit term are: Batiquitos Beach - 117,000 cubic yards (cy); Leucadia Beach - 132,000 cy; Moonlight Beach - 105,000 cy; and Cardiff Beach - 101,000 cy. Sand placed on the City's beaches which is not a part of the beach replenishment program is also subject to the identified maximum sand placement volumes for each site. The City shall prepare a database to track the beach nourishment volumes being placed within the City and at the four receiver sites. If the City and/or any other party propose cumulative sand placement volumes that exceed these identified maximum amounts within any of the receiver sites (or elsewhere on the City's beaches), an amendment or a new CDP will be required by

the responsible agency that may include more intensive nearshore reef monitoring, lagoon inlet monitoring, and other applicable mitigation elements.

- 5. Baseline Information, Marine Protected Area (MPA) Monitoring Data, and Reporting. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the City will either 1) conduct studies to document the baseline conditions of the on- and nearshore beach communities (e.g. onshore infaunal beach and rocky intertidal habitat; nearshore soft bottom, hard bottom, surfgrass, and kelp forest habitat) and beach transects for Batiquitos, Leucadia, Moonlight, and Cardiff Beaches OR 2) pull together baseline information using existing reports and data (e.g. MPA monitoring data, SANDAG data, existing academic studies, etc.) for use in producing a baseline conditions report that will be submitted to the Executive Director for review and written approval. The City will simultaneously contact the MPA monitoring enterprise to inform them of the beach replenishment program, to set up communication for notification of dates, times, sand volumes of opportunistic sand placement, to discuss the potential adverse impacts of the beach replenishment program on adjacent MPA's, and to discuss whether the MPA survey protocols are designed such that data could be used to detect potential adverse impacts sand replenishment.

The City will submit a biological resources condition report as part of each Project Notification Report submittal and additionally a post-project report, both of which shall consist of similar content as the Baseline Information Report (as described above) and will provide a summary and analysis of whether adverse impacts from opportunistic sand nourishment has been detected for all available MPA studies that focus on nearshore reef systems located within or adjacent to the City beach boundaries. The post-project report shall be submitted by the following July 15 to the Executive Director of the Commission. The report shall compare the information obtained from the MPA studies against recent beach transect data, and include any sand placement activities that have been implemented over the course of the subject permit. If the MPA studies find that adverse impacts to the MPA have occurred as a result of increased sand levels within these nearshore areas or if beach transect data show a significant increase in sand levels over historic levels, the Executive Director of the Commission shall determine if an amendment to this CDP is required to include more intensive nearshore monitoring efforts to address any new impacts not already addressed and mitigated under this permit, prior to any additional placement of sand on any of the City's beaches.

- 6. Lagoon Mitigation and Monitoring. PRIOR TO APPROVAL OF EACH PROJECT NOTIFICATION REPORT**, the City shall submit to the Executive Director evidence of consultation and agreement with the relevant managers for the Batiquitos and San Elijo Lagoon systems. This agreement shall include identification of how sediment accumulation in the lagoons is monitored, and acknowledge that if increased sediment levels are attributed to the beach nourishment activities entitled by this permit, the City shall negotiate with lagoon owners at that time to determine fair share compensation for maintenance efforts.

The City will submit an update on lagoon shoaling and necessary dredging activities as a part of each Project Notification Report submittal and as a part of an annual report submitted (if a project is implemented during a given year) by July 15 to the Executive Director of the Commission. This update will provide results of lagoon monitoring and details any compensation paid by the City for maintenance efforts. The City shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

7. **Prior Conditions of Approval.** All terms and conditions of the original approval of Coastal Development Permit #6-08-110 as amended, not specifically modified herein, shall remain in full force and effect (Ref: Exhibit 1 1).
8. **Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT,** the applicant shall submit to the Executive Director for review and written approval, final plans that are in substantial conformance with the plans included as Exhibits 2-5 of the staff report for 6-08-11 0-A2. Said plans shall include the following:
  - a. The term 'Surf Zone Placement Footprint' shall be replaced with the term 'Intertidal Placement Footprint.'
  - b. The footprint for both 'Intertidal Placement' and 'Beach Berm Placement' shall be modified such that the sand placement footprint does not encroach seaward of -2 ft. Mean Lower Low Water (MLLW).

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

Permit No. 6-08-110-A3

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 or 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.

#### SPECIAL CONDITIONS

1. [Special Condition No. 1 of CDP No. 6-08-110-A2 remains unchanged and in effect]
2. [Special Condition No. 2 of CDP No. 6-08-110 remains unchanged and in effect]
3. [Special Condition No. 3 of CDP No. 6-08-110-A2 remains unchanged and in effect]
4. [Special Condition No. 4 of CDP No. 6-08-110-A2 remains unchanged and in effect]
5. [Special Condition No. 5 of CDP No. 6-08-110-A2 remains unchanged and in effect]
6. [Special Condition No. 6 of CDP No. 6-08-110-A2 remains unchanged and in effect]
7. [Special Condition No. 7 of CDP No. 6-08-110-A2 remains unchanged and in effect]
8. [Special Condition No. 8 of CDP No. 6-08-110-A2 remains unchanged and in effect]
9. **Grunion Monitoring & Avoidance Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and written approval, a Grunion Monitoring and Avoidance Plan that provides for the following:
  - a) Should sand placement activities be necessary below the high tide line between March 1 and May 28, the City shall avoid impacts to mature and/or spawning grunion and to grunion eggs. The applicant shall retain the services of a biologist with appropriate qualifications. The annually published California Department of Fish and Wildlife (CDFW) expected grunion runs shall be used to determine possible grunion spawning periods. The plan shall, at a minimum, include:

- i. Sand placement sites shall be monitored for grunion runs beginning at least two weeks prior to commencement of sand placement activities, and throughout the period of planned sand placement work from March 1 through May 28. Monitoring is not necessary in areas where there is no sand, such as areas supporting 100% cobble or bluff backed beaches with no sand exposed during high tide.
- ii. Grunion monitoring shall be conducted by a qualified biologist for 30 minutes prior to, and two hours following, the predicted start of each daily spawning event. Sufficient qualified biologists shall be employed to ensure that the entire proposed sand placement site is monitored during the predicted grunion run. The magnitude and extent of a spawning event shall be defined in 300-foot segments of beach using the Walker Scale (Exhibit 10). Every individual fish (males and females) shall be counted to determine the Walker Scale value (e.g. 0, 1, 2, 3, 4, or 5) of each 300-foot segment within the proposed work area. Sand placement activities shall be modified according to the following plan:
  - a. If a grunion run consisting of 0-100 individual fish per 300-foot segment (Walker Scale 0 or 1) is reported within two weeks prior to, or during, sand placement work, the applicant does not need to take any avoidance action for grunion eggs. No mature grunion may be buried or harmed as a result of sand placement.
  - b. Within two weeks prior to proposed work, if a grunion run consisting of 100 or more individual fish per 300-foot segment (Walker Scale 2, 3, 4, or 5) is reported, the applicant shall avoid work on the respective beach segment(s) and truck route and additionally, shall avoid a 100-foot buffer on either side of the segment(s) and route, for a minimum of two weeks, to ensure that no grunion eggs are buried or disturbed<sup>3</sup>. These areas shall be memorialized through multiple GPS coordinates, and marked with irrigation flags for a minimum of two weeks when the next scheduled grunion run will be monitored. The applicant shall adapt the sand placement schedule to avoid operations on such beach segments and their associated buffers. No mature grunion may be harmed as a result of sand placement.
  - c. If sand placement has already commenced, and a grunion run consisting of 100 to 500 individual fish, in one or more 300-foot segment (Walker Scale 2) in the work area is reported, the applicant shall avoid impacts to grunion eggs to the greatest extent feasible and then shall minimize impacts to

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<sup>3</sup> During grunion spawning season, grunion spawn once every two weeks, on several nights, during the highest tides that occur during each month (called spring and neap tides). Grunion eggs take approximately 10 days to mature and hatch during the next high tide. Monitoring for grunion runs must happen, per the annual CDFW published grunion spawning schedule, because one cannot predict where grunion will spawn from one event to another.

grunion eggs through such measures as alteration of the truck route, sand discharge points, sand spreading areas, and sand placement locations.

- d. If sand placement has already commenced, and a grunion run consisting of 500 or more individual fish per segment (Walker Scale 3, 4, or 5) is reported, the applicant shall avoid work on the respective beach segment(s) and truck route and additionally, shall avoid a 100-foot buffer on either side of the segment(s) and route, for a minimum of two weeks, to ensure that no grunion eggs are buried or disturbed. These areas shall be memorialized through multiple GPS coordinates, and marked with irrigation flags for a minimum of two weeks when the next scheduled grunion run will be monitored. The applicant shall adapt the sand placement schedule to avoid operations on such beach segments and their associated buffers. No mature grunion may be harmed as a result of sand placement.

10. **Avian Monitoring & Avoidance Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and written approval an Avian Monitoring and Avoidance Plan that provides for the following:

- a) Sand placement activities that occur during western snowy plover breeding season (March 1 to August 31) and California least tern breeding season (April 1 to September 15) will take the following steps to mitigate impacts to these species. A designated avian biological monitor with stop-work authority will conduct pre- and during construction surveys as needed within the project area and within 500 feet of the work area to determine the location of any active special status avian roosting and nesting areas. If western snowy plovers or California least terns are observed during any survey, the following measures will be implemented:
  - i. If western snowy plovers or California least terns are observed exhibiting nesting behaviors (scraping, territorial displays or calls, false brooding, etc.) during the breeding season, no project-related activities will occur within 500 feet of these areas until subsequent monitoring indicates that western snowy plovers or California least terns are no longer present.
  - ii. If an active western snowy plover or California least tern nest (nest containing eggs or an empty or partial nest with western snowy plovers or California least terns actively exhibiting breeding behaviors) occurs within 500 feet of the proposed construction area, the following measures will be implemented:
    - a. The biological monitor with stop-work authority will report the nest to the U.S. Fish and Wildlife Service. After initial identification of the nest, the biological monitor will not approach within 50 feet of an active western snowy plover or California least tern nest. Nest monitoring will occur with binoculars. The biological monitor will use the distance to the

project limits and local topography to determine if construction activities are likely to damage a nest or significantly disturb nesting activities. Signage will be installed to deter people from entering any area with an active nest.

- b. Where damage or disturbance of any western snowy plover or California least tern nest(s) is likely, the designated biological monitor will implement further measures to avoid the likelihood of nest destruction or disturbance, including: temporarily halting construction activities until the nest fails or until at least 10 days after the young fledge from the nest, with construction activities directed to other areas further than 350 feet from the active nest(s) or where activities will not disturb the active net(s), as directed by the biological monitor.
  - c. The biological monitor will monitor nest progress, construction activity, and protective fencing to minimize potential construction-related disturbance and will submit a weekly nest status report to the U.S. Fish and Wildlife Service. A post-construction report will be submitted to the U.S. Fish and Wildlife Service summarizing the weekly nest status report and outcomes within 6 months of project completion.
- b) No activities are allowed within 100 feet of active roost areas for the western snowy plover or California least tern unless measures are implemented to minimize the noise and disturbance to those adjacent birds until subsequent monitoring indicates that western snowy plover and California least tern are no longer present. If these conditions cannot be met, the following measures will be implemented:
- i. The biological monitor with stop-work authority will report the roost site to the U.S. Fish and Wildlife Service. After initial identification of the roost, the biological monitor will not approach within 50 feet of roosting western snowy plover or California least terns. Roost monitoring will occur with binoculars. The biological monitor will use the distance to the project limits and local topography to determine if construction activities are likely to damage a nest or significantly disturb nesting activities. Signage will be installed to deter people from entering any area with an active nest.
  - ii. Where damage or disturbance of any western snowy plover or California least tern roosting is likely, the biological monitor will implement further measures to avoid the likelihood of roost disturbance, including temporarily halting construction activities until the birds depart for the season, with construction activities directed to other areas that will not disturb the roost, as directed by the designated biological monitor.
  - iii. A biological monitor will monitor the roost and construction activity to minimize potential construction-related disturbance and will submit a weekly nest status report to the U.S. Fish and Wildlife Service. A post-

construction report will be submitted to the U.S. Fish and Wildlife Service summarizing the weekly nest status report and outcomes within 6 months of project completion.

c) All participants and contractors for the project will receive educational training concerning special status species within the project area. The program will be conducted during all project phases and will cover the potential presence of listed species; the requirements and boundaries of the project; the importance of complying with avoidance, minimization, and compensation measures; and problem reporting and resolution methods. The designated project biologist and/or other qualified project proponent shall conduct the training and provide a sign-in sheet for each training activity to ensure all participants and contractors are educated on the environmental conditions and associated constraints.

11. **Existing Conditions Monitoring.** By May 1 three years after the date of approval of this permit (i.e. by May 2022), the City will either 1) conduct new studies to document existing conditions of the on- and nearshore beach communities (e.g. onshore infaunal beach and rocky intertidal habitat; nearshore soft bottom, hard bottom, surfgrass, and kelp forest habitat) and beach transects for Batiquitos, Leucadia, Moonlight, and Cardiff beaches OR 2) compile and update this information using existing reports and data (e.g., the previously submitted report “The City of Encinitas Opportunistic Beach Fill Program Baseline Information Report Guidance (May 2017),” MPA monitoring data, SANDAG data, existing academic studies, etc.) for use in producing an existing conditions report that will be submitted to the Executive Director for review and written approval.

The City will continue to contact the California Department of Fish and Wildlife (CDFW) to notify CDFW of dates, times, sand volumes of opportunistic sand placement, to allow CDFW to provide input on any potential adverse impacts of the beach replenishment program on adjacent MPA’s, and to ensure the MPA survey protocols are designed such that data can be used to detect potential adverse impacts of sand replenishment.

The City will submit a biological resources condition report as part of each Project Notification Report submittal and additionally a post-project report, both of which shall consist of similar content as the Existing Conditions Report (as described above) and will provide a summary and analysis of whether adverse impacts from opportunistic sand nourishment has been detected for all available MPA studies that focus on nearshore reef systems located within or adjacent to the City beach boundaries. The post-project report shall be submitted by the following July 15 to the Executive Director of the Commission. The report shall compare the information obtained from the MPA studies against recent beach transect data, and include any sand placement activities that have been implemented over the course of the subject permit. If the MPA studies find that adverse impacts to the MPA have occurred as a result of increased sand levels within these nearshore areas or if beach transect data show a significant increase in sand levels over historic levels, the Executive Director of the Commission shall determine if an amendment to this

CDP is required to include more intensive nearshore monitoring efforts to address any new impacts not already addressed and mitigated under this permit, prior to any additional placement of sand on any of the City's beaches.

12. **Scope and Term of Permit Approval.** The development authorized by this CDP amendment is limited to beach nourishment that is consistent with the project limits identified in the preliminary Project Notification Report, including, but not limited to, the placement sites, maximum quantities of beach nourishment, seasonal limitations on placement, and methods of delivery. Activities may take place only from September 15th to May 28th of each year. The authorization for continuing development pursuant to this permit amendment shall expire five years from the date of Commission approval of CDP Amendment No. 6-08-110-A3.
13. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, landslide, bluff retreat, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is 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.

Permit No. 6-08-110-A4

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. The Executive Director may extend this period by one year for good cause. 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 or 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.

## SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Revised Final Project Notification Report Template. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the City shall submit for review and written approval by the Executive Director, a revised final Project Notification Report Template in substantial conformance with the preliminary approved Project Notification Report Template from 6-08-110-A2 (attached as Appendix B Exhibit 3) and consistent with all special conditions in effect. The revised final Project Notification Report Template shall update the following information:
  - a) The paragraph before Section 1 Introduction shall include the sentence, "Written approval of each PNR by the Executive Director of the Commission is required."
  - b) In Section 1 Introduction, the Proposed Placement Volumes and Seasonal Restrictions table to match the permitted season of September 15<sup>th</sup> to May 28<sup>th</sup> of each year.
  - c) In Section 5 Public Notification Process, add that posting of a pending project will also be posted on the City's website. The results of the material testing will also be available on the City's website.
  - d) In Section 6 Project Monitoring, monitoring data and reports regarding status of and changes in nearshore habitat types, acreage, and/or species, and special status and fishery species in Swami's State Marine Conservation Area (SMCA) and Cardiff Reef shall replace the four specific studies that may be used to compile the biological conditions section of submitted reports.
  - e) In Section 6 Project Monitoring, Table 2 Summary of Project Design Features and Monitoring Actions to include grunion and avian monitoring avoidance.
  - f) In Section 6 Project Monitoring, remove the requirement to submit an annual report to the Commission if a project is implemented in a given year.

g) In Section 8 Submittals, add the required submittal of a Changed Conditions Report five years from the date of Commission approval of CDP Amendment No. 6-08-110-A4.

The City shall comply with the procedures and submittal requirements outlined in the approved Project Notification Report. Any proposed changes to the approved Project Notification Report shall be reported to the Executive Director. No change to the Project Notification Report shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

2. [Special Condition No. 2 of CDP No. 6-08-110 remains unchanged and in effect]
3. [Special Condition No. 3 of CDP No. 6-08-110-A2 remains unchanged and in effect]
4. [Special Condition No. 4 of CDP No. 6-08-110-A2 remains unchanged and in effect]
5. [Special Condition No. 5 of CDP No. 6-08-110-A2 remains unchanged and in effect]
6. **Lagoon Mitigation and Monitoring. PRIOR TO APPROVAL OF EACH PROJECT NOTIFICATION REPORT**, the City shall submit to the Executive Director evidence of consultation and agreement with the relevant managers for the Batiquitos and San Elijo Lagoon systems. This agreement shall include identification of how sediment accumulation in the lagoons is monitored, and acknowledge that if increased sediment levels are attributed to the beach nourishment activities entitled by this permit, the City shall negotiate with lagoon owners at that time to determine fair share compensation for maintenance efforts.

The City will submit an update on lagoon shoaling and necessary dredging activities as a part of each Project Notification Report submittal ~~and as a part of an annual report submitted (if a project is implemented during a given year) by July 15~~ to the Executive Director of the Commission. This update will provide results of lagoon monitoring and details any compensation paid by the City for maintenance efforts. The City shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

7. [Special Condition No. 7 of CDP No. 6-08-110-A2 remains unchanged and in effect]
8. [Special Condition No. 8 of CDP No. 6-08-110-A2 remains unchanged and in effect]
9. [Special Condition No. 9 of CDP No. 6-08-110-A3 remains unchanged and in effect]
10. [Special Condition No. 10 of CDP No. 6-08-110-A3 remains unchanged and in effect]

11. **Existing Conditions Monitoring.** By May 1 three years after the date of approval of this permit (i.e. by May 2022), the City will either 1) conduct new studies to document existing conditions of the on- and nearshore beach communities (e.g. onshore infaunal beach and rocky intertidal habitat; nearshore soft bottom, hard bottom, surfgrass, and kelp forest habitat) and beach transects for Batiquitos, Leucadia, Moonlight, and Cardiff beaches OR 2) compile and update this information using existing reports and data (e.g., the previously submitted report “The City of Encinitas Opportunistic Beach Fill Program Baseline Information Report Guidance (May 2017),” MPA monitoring data, SANDAG data, existing academic studies, etc.) for use in producing an existing conditions report that will be submitted to the Executive Director for review and written approval.

The City will continue to contact the California Department of Fish and Wildlife (CDFW) to notify CDFW of dates, times, sand volumes of opportunistic sand placement, to allow CDFW to provide input on any potential adverse impacts of the beach replenishment program on adjacent MPA’s, and to ensure the MPA survey protocols are designed such that data can be used to detect potential adverse impacts of sand replenishment.

The City will submit a biological resources condition report as part of each Project Notification Report submittal and additionally a post-project report, both of which shall consist of similar content as the Existing Conditions Report (as described above) ~~and will provide a summary and analysis of whether adverse impacts from opportunistic sand nourishment has been detected for all available MPA studies that focus on nearshore reef systems located within or adjacent to the City beach boundaries.~~ The post-project report shall be submitted by the following July 15<sup>th</sup> to the Executive Director of the Commission. ~~If the MPA studies existing data or reports, including but not limited to this report, find that adverse impacts to the on- or nearshore beach communities have occurred as a result of increased sand levels MPA have occurred as a result of increased sand levels within these nearshore areas or if beach transect data show a significant increase in sand levels over historic levels,~~ the Executive Director of the Commission shall determine if an amendment to this CDP is required to include more intensive nearshore monitoring efforts to address any new impacts not already addressed and mitigated under this permit, prior to any additional placement of sand on any of the City’s beaches.

12. **Scope and Term of Permit Approval.** The development authorized by this CDP amendment is limited to beach nourishment that is consistent with the project limits identified in the ~~preliminary~~ Revised Final Project Notification Report Template, including, but not limited to, the placement sites, maximum quantities of beach nourishment, seasonal limitations on placement, and methods of delivery. Activities may take place only from September 15<sup>th</sup> to May 28<sup>th</sup> of each year. The authorization for continuing development pursuant to this permit amendment shall expire ~~five~~ ten years (March 2035) from the date of Commission approval of CDP Amendment No. 6-08-110-A3A4.

13. [Special Condition No. 13 of CDP No. 6-08-110-A3 remains unchanged and in effect]
14. **Changed Conditions Report.** Five years from the date of Commission approval, the applicant shall submit one printed copy and one digital copy of a Changed Conditions Report to the Executive Director for review and written approval. The Changed Conditions Report shall include:
- a) A summary of all placement activities conducted under the program, and a summary of monitoring results, as informed by the monitoring reports described in the Project Notification Report Template.
  - b) A summary of all sand placement activities including those other than SCOUN activities within the City.
  - c) A summary and analysis of whether adverse impacts from opportunistic sand nourishment has been detected for all available studies that focus on nearshore reef systems located within or adjacent to the City beach boundaries. Specifically, the report shall compare the project data gathered prior to, during, and following sand placement activities with any existing data or reports in Swami's SMCA and Cardiff Reef regarding habitat types, acreage, and/or species, and fishery and special status species, to interpret whether opportunistic sand nourishment adversely impacted nearshore reef systems. Further, the report shall interpret available beach transect data within or adjacent to the City beach boundaries over the sand placement period. If existing data or reports, including but not limited to this report, find that adverse impacts to Swami's SMCA have occurred as a result of increased sand levels within these nearshore areas or if beach transect data at any beach between within or adjacent to the City beach boundaries show a significant increase in sand levels over historic levels, the Executive Director of the Commission shall determine if an amendment to this CDP is required to include more intensive nearshore monitoring efforts to address any new impacts not already addressed and mitigated under this permit, prior to any additional placement of sand on any of the City's beaches.
  - d) The report shall summarize the effectiveness of the Special Conditions in meeting project objectives, including in terms of maintaining public coastal access, habitat values, and coastal resource protection, and include any changes needed to better meet these objectives or protect coastal resources.

If the Executive Director determines that there are changed circumstances and that an amendment to this CDP or a separate CDP is legally required to continue this program, the permittee shall submit and complete the required application within 90 days.

## **APPENDIX B – SUBSTANTIVE FILE DOCUMENTS**

1. Environmental Impact Report/Review Environmental Assessment for the San Diego Regional Beach Sand Project dated June 2000
2. Environmental Assessment/Final Environmental Impact Report for the San Diego Regional beach Sand Project II, dated May 2011
3. California Coastal Commission Sea Level Rise Policy Guidance, dated November 13, 2024
4. Ocean Protection Council State of California Sea Level Rise Guidance, dated 2024
5. Final Mitigated Negative Declaration to amend the city of Encinitas Opportunistic Beach Fill Program, dated February 2014
6. The City of Encinitas Opportunistic Beach Fill Program, Baseline Information Report and Biological Resources Condition Report Guidance
7. Existing Conditions Monitoring Report for CDP No. 6-08-110-A3 City of Encinitas OBFP for Specific Condition No. 11
8. Project Notification Report template
9. I-5 Berm Opportunistic Beach Fill Project Post-Discharge Report
10. Coastal Habitat Study, 2003-2005: Influence of Beach Nourishment on Biological Resources at Beaches in the City of Encinitas, California, SAIC, dated June 2006
11. Consistency Determination
  - CD-0203-13
12. CDP Nos.
  - 6-08-110
  - 6-08-110-A2
  - 6-08-110-A3
  - 6-08-038-A3