

EXHIBIT "A"

Findings of Fact and Statement of Overriding Considerations

(See attached.)

**THE BOARD OF PORT COMMISSIONERS
OF THE
SAN DIEGO UNIFIED PORT DISTRICT**

**FINDINGS OF FACT
FOR THE
National City Bayfront Projects & Plan
Amendments**

**FINAL ENVIRONMENTAL IMPACT REPORT
(UPD #EIR-2018-232; SCH #2018121054)**

November 2022

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FINDINGS OF FACT
FOR THE
NATIONAL CITY BAYFRONT PROJECTS & PLAN AMENDMENTS
FINAL ENVIRONMENTAL IMPACT REPORT
(UPD #EIR-2018-232; SCH #2018121054)

INTRODUCTION

The Board of Port Commissioners of the San Diego Unified Port District (District) hereby makes the following Findings concerning the Final Environmental Impact Report (UPD #EIR-2018-232; SCH #2018121054) for the National City Bayfront Projects and Plan Amendments (“proposed project”), pursuant to the California Environmental Quality Act, Public Resources Code §21000, *et seq.* (CEQA), and its implementing regulations, California Code of Regulations, Title 14, §15000, *et seq.* (State CEQA Guidelines).

The Final Environmental Impact Report (EIR) prepared for the proposed project consists of the following:

- Volume 1 of the Final EIR is composed of the following:
 - Chapter 1 is an introduction to the Final EIR.
 - Chapter 2 contains an overview of the revisions made to the Draft EIR.
 - Chapter 3 contains comments received on the Draft EIR during the public comment period and the District’s responses to those comments.
 - Chapter 4 contains references used in the Final EIR.
 - Attachment 1 to the Final EIR contains the Mitigation Monitoring and Reporting Program (MMRP).
- Volume 2 of the Final EIR is a revised version of the Draft EIR, identifying changes in the text of the Draft EIR and other information added by the District in response to the public comments received during the public comment period.
- Volume 3 of the Final EIR consists of Appendices A through G of the Final EIR. Appendix Da (Revised Draft Port Master Plan Amendment associated with Balanced Plan) was added to the Final EIR.
- Volume 4 of the Final EIR consists of Appendices H through J of the Final EIR. Revisions were made to Appendix H (Marine Biological Resources Report) and Appendix J (Noise and Vibration Data and Calculations). Appendix Ia (Historic Property Survey Report) was added to the Final EIR.
- Volume 5 of the Final EIR consists of Appendix K of the Final EIR. Revisions were made to Appendix K (Transportation Impact Analysis).

- Volume 6 of the Final EIR consists of Appendices L through N of the Final EIR.

1.0 PROJECT DESCRIPTION

1.1 Project Overview

The District, City of National City (City), GB Capital Holdings (GB Capital), and Pasha Automotive Services (Pasha), as project applicants and proponents (collectively, project proponents), are proposing a project with both landside and waterside development components; an amendment to the District's Port Master Plan (PMP); amendments to the City's Local Coastal Program (LCP), General Plan, Harbor District Specific Area Plan (HDSAP), and Land Use Code (LUC) (Municipal Code Title 18 Zoning) (collectively "project" or "proposed project") on approximately 77 acres, consisting of approximately 58 landside acres and 19 waterside acres (project site) within District and City jurisdiction in National City.

Specifically, the proposed project includes the following main components.

- Changes to land and water use designations in the District's PMP (National City Marina District Balanced Land Use Plan [Balanced Plan]).
- Construction and operation of a recreational vehicle (RV) park, modular cabins, dry boat storage, an expanded marina, and up to four hotels, primarily within the District's jurisdiction (GB Capital Component).
- Construction and operation of a rail connector track and storage track within the District's jurisdiction (Pasha Rail Improvement Component).
- Closure of Tidelands Avenue between Bay Marina Drive and 32nd Street, as well as West 28th Street between Tidelands Avenue and Quay Avenue, within the District's and City's jurisdictions and redesignation of the area to Marine-Related Industrial in the District's PMP (Pasha Road Closures Component).
- Construction and operation of Segment 5 of the Bayshore Bikeway within the District's and City's jurisdictions (Bayshore Bikeway Component).
- Construction and operation of hotel, restaurant, retail, and/or a combination of tourist/visitor-serving commercial development north of Bay Marina Drive within the City's jurisdiction (City Program – Development Component).
- PMP Amendment (PMPA) to clarify jurisdictional land use authority, redesignate land uses, balance commercial and maritime uses, add appealable projects to the project list and change the Planning District accordingly (PMPA Component).
- Amendments to the City's LCP, General Plan, HDSAP, and LUC that would include changes to jurisdictional boundaries; changes to subarea

boundaries; and changes to land use, specific plan, and zone designations (City Program – Plan Amendments Component).

The proposed Balanced Plan includes a PMPA and corresponding LCP amendment (LCPA) to correct jurisdictional land use maps and clarify the land use authority, redesignate land uses, and balance commercial and maritime uses. The Balanced Plan was created in response to a public planning process to identify a reconfiguration of land uses to optimize recreational, maritime, and commercial uses within the National City Marina District, which is the area generally north of Sweetwater Channel and west of the wildlife refuge (Paradise Marsh). Implementation of the Balanced Plan would clearly delineate maritime land use boundaries from potential recreational and commercial land use boundaries while allowing operational efficiencies, but not throughput, to increase at the National City Marine Terminal (NCMT) and maintaining sensitivity to the function and sustainability of the Paradise Marsh, as well as public access and recreation in an expanded Pepper Park. The Balanced Plan proposes to accomplish this through the reconfiguration of roadways, a new rail connection, reconfiguration of commercial recreation and maritime-related land uses, the expansion of Pepper Park, and preservation of habitat buffers for the adjacent wildlife refuge.

The Balanced Plan, most of the GB Capital Component, the Pasha Rail Improvement Component, most of the Pasha Road Closures Component, and a portion of the Bayshore Bikeway Component are all within the District's jurisdictional boundaries. Consequently, changes proposed by these components would require a PMPA and are referred to collectively as the "Port Master Plan Amendment Component" or "PMPA Component" and include:

- Incorporation of the Balanced Plan, most of the GB Capital Component, the Pasha Rail Improvement Component, and the alignment of the Bayshore Bikeway into the PMP.
- Removal of the Street designation for the street closures associated with the Pasha Road Closures Component and redesignation of these areas (with the exception of the area within the City's jurisdiction) as Marine-Related Industrial.
- Addition of approximately 12.4 acres of the Balanced Plan, located mostly on the GB Capital site east of the mean high tide line and owned in fee by the District, into the PMP.
- Addition of appealable projects to the project list.

Most of the proposed Bayshore Bikeway Component and the entire proposed City Program – Development Component are within the City's jurisdiction. Consequently, the City Program – Plan Amendments would consist of the following:

- Removal of approximately 12.4 acres of the Balanced Plan, located mostly on the GB Capital site east of the mean high tide line and owned in fee by the District, from the City's General Plan, LCP, HDSAP, and LUC to reflect changes in land use and jurisdictional authority.
- Incorporation of seven parcels north of Bay Marina Drive and adjacent rights-of-way into the City's HDSAP.

1.2 Project Location

The project site is located in the southwestern portion of National City, partially within the City's existing jurisdiction, partially within the District's existing jurisdiction. The project area is generally bordered by Paradise Marsh (part of the San Diego Bay National Wildlife Refuge/Sweetwater Marsh Unit) to the east, Sweetwater Channel to the south, NCMT and maritime uses to the west, and Civic Center Drive and commercial and industrial uses to the north.

Most of the project site is on land that is within the District's jurisdiction, and the District has regulatory duties and proprietary responsibilities over these portions of the project site. These portions of land have included leases since 1990 to Pasha for operation of an automotive import/export business at the marine terminal and leases since 2008 to GB Capital for operation of a recreational boat marina. In addition, Pepper Park and a portion of Sweetwater Channel (west of the mean high tide line) are part of the project site included within the District's jurisdiction, and a portion of Sweetwater Channel (east of the mean high tide line) is part of the project site included within the City's jurisdiction.

The proposed project consists of the following six components, which, while not all contiguous, total approximately 77 acres, and are in the following general locations:

- The Balanced Plan is located within the District's jurisdiction and is a land use plan to reconfigure land and water uses within the approximately 60.9-acre area generally north of Sweetwater Channel, south of the National Distribution Center, east of NCMT, and west of Paradise Marsh. The Balanced Plan proposes to reconfigure areas that are designated for Park/Plaza, Commercial Recreation, Marine Terminal, Marine-Related Industrial, Recreational Boat Berthing, and Street land uses in the Port Master Plan. The Balanced Plan also includes an expansion to Pepper Park.
- The GB Capital Component includes the Pier 32 Marina and the undeveloped lot to the north of the marina, part of the Sweetwater Channel to the south of the marina, and two existing parking lots utilized by Pasha, generally to the north and west of the marina. The GB Capital site is generally bounded by Sweetwater Channel to the south, Paradise Marsh to the east, the National Distribution Center facility to the north, and NCMT to the west. The GB Capital Component is proposed to be located generally on the area identified for a Commercial Recreation land use in the Balanced

Plan, but also extends into the City's jurisdiction, and outside the Balanced Plan boundaries, in the Sweetwater Channel. The landside portions of the GB Capital Component, as well as the existing marina, and most of the jetty are located within the District's jurisdiction.

- The Pasha Rail Improvement Component, which is located within the District's jurisdiction, would traverse the lot bounded on the north by existing railroad tracks and the National Distribution Center, on the east by Marina Way, on the south by 32nd Street, and on the west by Tidelands Avenue. The Pasha Rail Improvement Component is proposed to be located in the area identified for a Marine Related Industrial land use in the Balanced Plan.
- The Pasha Road Closures Component is located on Tidelands Avenue, from south of Bay Marina Drive to 32nd Street, and West 28th Street, between Quay Avenue and Tidelands Avenue. The Pasha Road Closures Component is mostly located within District jurisdiction, and a portion (between Bay Marina Drive and the mean high tide line) is located within City jurisdiction.
- The Bayshore Bikeway Component is generally located on a combination of existing roadways, including Bay Marina Drive, Marina Way (formerly Harrison Avenue), McKinley Avenue, and Civic Center Drive. Most of the Bayshore Bikeway Component is located within the City's jurisdiction, and the southernmost portion is located within District jurisdiction.

The City Program – Development Component is located within the City's jurisdiction, north of Bay Marina Drive, generally bounded by West 23rd Street on the north, the Interstate (I-) 5 southbound off-ramp at Bay Marina Drive to the east, Bay Marina Drive to the south, and the BNSF Railway (BNSF) railroad tracks to the west (west of the intersection of Bay Marina Drive and Marina Way).

1.3 Project Objectives

To achieve the purpose and need of the proposed project, the District has identified the following objectives in coordination with the City.

1. Further activate the project site by modifying the land uses and their configurations to foster the development of high-quality commercial and recreational uses to maximize employment opportunities, maximize recreational opportunities for visitors, maximize economic development opportunities, and to improve cargo and transportation efficiencies of maritime industrial uses associated with operations at NCMT.
2. Reconfigure maritime and commercial uses to balance the anticipated future market demands for those uses, while also increasing public access on the project site.

3. Implement cohesive commercial development that is designed to enhance enjoyment of the National City Marina District and surrounding City area, contribute to the area's economic vitality, and generate economic revenue for the City including through increased Transient Occupancy Tax.
4. Increase park space and recreational opportunities to enhance the waterfront experience for all visitors and maximize opportunities to attract tourism to the City.
5. Reduce unnecessary train movements and reduce the required effort associated with building daily trains by improving near-terminal rail storage capacity and creating a more direct connection between the BNSF Railway National City Yard and the NCMT.
6. Offset the loss of existing land used for maritime operations, as proposed in the Balanced Plan, by closing internal District streets (i.e., Tidelands Avenue and West 28th Street) adjacent to existing maritime operations to create contiguous space for maritime operations and configuring cargo operations at and adjacent to the NCMT to create cargo-handling efficiencies to reduce cargo movements.
7. Incorporate District properties into the PMP that are not currently regulated by the PMP to ensure consistency with the California Coastal Act, Public Trust Doctrine, and Port Act.
8. Be consistent with the City's environmental policies and the District's Climate Action Plan, Clean Air Program, and Jurisdictional Runoff Management Program to ensure that the proposed project does not adversely affect the District's or City's ability to attain their respective long-range environmental and sustainability goals.¹
10. Incorporate a land use pattern for the National City Marina District into the PMP that establishes habitat buffers and implements operational features to avoid land use and operational inconsistencies between commercial, recreational, open space, and maritime uses.
11. Integrate National City, art, culture, and history into the development of the proposed project.
12. Increase the connectivity of the Project area to the surrounding area and facilitate increased pedestrian activity and enjoyment of San Diego Bay for visitors.

¹ Objective 9, expand aquaculture potential on District tidelands, was removed because GB Capital withdrew its request for aquaculture from the proposed project.

2.0 ENVIRONMENTAL PROCEDURES

2.1 Lead Agency

Pursuant to State CEQA Guidelines §15367, the District is the “lead agency” because it has the principal responsibility for approving the proposed project and the majority of the project site is within the District’s land use jurisdiction. As the CEQA lead agency, the District also has primary responsibility for conducting an environmental review pursuant to CEQA. The District determined that an EIR should be prepared to analyze the environmental effects of the proposed project, which will be used by the Board of Port Commissioners (Board) in connection with its discretionary decisions regarding the proposed project. The Board is also responsible for approval of the PMPA and Coastal Development Permits (CDPs) and any real estate agreements for the project components within the District’s jurisdiction. If the Board approves the PMPA, the California Coastal Commission (CCC) will then consider whether to certify the PMPA. The CCC, as a CEQA responsible agency as defined State CEQA Guidelines §15381, would consider the EIR prior to making its decision whether to certify the PMPA. If the PMPA is fully certified by the CCC, the Board would consider approval of CDPs and leases for the project components within the District’s jurisdiction, allowing the proposed project within the District’s jurisdiction to proceed to construction.

The City is a responsible agency, as defined by State CEQA Guidelines §15381, and prior to reaching a decision on the proposed project, the City is required to consider the environmental effects generated from the project as analyzed in the EIR. The City is required to adopt a mitigation monitoring and reporting program for those portions within the City’s discretionary authority. The City’s approval is required for amendments to the City’s General Plan, LUC, LCP, and HDSAP and for authorization of issuance of CDP(s) for proposed project components within the City’s jurisdiction. Furthermore, the City’s approval is required for the issuance of other discretionary permits (e.g., CDPs, conditional use permit) and ministerial permits (e.g., grading, building, electrical). The CCC must approve the certification of, and final action by the City for amendments to the LCP, General Plan, LUC, and HDSAP which would occur post certification of the FEIR.

The California Department of Transportation (Caltrans) is also considered a responsible agency because approval from Caltrans would be required in order for GB Capital to use the Caltrans property south of the marina (the portion of the jetty east of the mean high tide line).

The California State Lands Commission (CSLC) is a trustee agency, as defined in State CEQA Guidelines Section 15386. CSLC may have an interest in the proposed project; however, CSLC would not issue approvals or permits that would be required to implement the proposed project.

2.2 Environmental Impact Report

Pursuant to State CEQA Guidelines §15080, *et seq.*, the District prepared an EIR to analyze the potential environmental impacts of the proposed project. The Final EIR contains all the information required by State CEQA Guidelines §15132, including the Draft EIR and the appendices to the Draft EIR.

2.3 Public Participation

Environmental review of the proposed project began on December 20, 2018, with the publication of a Notice of Preparation (NOP) of the EIR and initiation of a public review period ending on January 31, 2019. The NOP was sent to the Office of Planning and Research and was filed with the San Diego County Clerk in accordance with State CEQA Guidelines §15082. The NOP and notices of its availability were mailed to public agencies, organizations, and other interested individuals to solicit their comments on the scope and content of the environmental analysis. The District also held a public scoping meeting on January 24, 2019, at the National City Aquatic Center.

The Draft EIR was completed and a Notice of Availability for public review was posted on September 29, 2021. A 50-day public review period began on September 29, 2021 and ended on November 17, 2021. The District received 19 comment letters during the public review period and five comment letters after close of the public review period.

These comments and the District's responses to them are included in Chapter 3, *Comments Received and District Responses*, of Volume 1 of the Final EIR, as required by State CEQA Guidelines §15088 and §15132. The Final EIR was completed and made available for review on September 30, 2022. Public hearings concerning certification of the Final EIR were held by the Board of Port Commissioners of the District on October 11, 2022 and November 16, 2022, at which interested agencies, organizations, and individuals were given an opportunity to comment on the Final EIR and the proposed project.

2.4 Record of Proceedings

For purposes of CEQA and the findings set forth below, the administrative record of the District's decision concerning certification of the Final EIR for the project shall include, but may not be limited to, the following:

- The Notice of Preparation and Initial Study (December 2018);
- The Draft EIR (September 2021);
- The Final EIR (September 2022);
- The appendices to the Draft EIR and the Final EIR;

- All documents and other materials referenced and/or incorporated by reference in the Draft EIR and Final EIR, including but not limited to the materials identified in Chapter 9, *References*, of the Draft EIR;
- All reports, applications, memoranda, maps, letters, and other documents prepared by the District's staff and consultants for the proposed project, which are before the Board of Port Commissioners as determined by the District Clerk;
- All documents or other materials submitted by interested persons and public agencies in connection with the Draft EIR and the Final EIR;
- The minutes, video recordings, and verbatim transcripts, if any, of the public hearings held on October 11, 2022 and November 16, 2022, concerning the Final EIR and the proposed project;
- Matters of common knowledge to the Board of Port Commissioners and the District, including but not limited to the Port Master Plan; and
- Any other materials required to be in the record of proceedings by California Public Resources Code Section 21167.6(e).

The custodian of the documents and other materials composing the administrative record of the District's decision concerning certification of the Final EIR is the Clerk of the Board of Port Commissioners. The location of the administrative record is the Port District's office at 3165 Pacific Highway, San Diego, California 92101. (Public Resources Code §21081.6(a)(2).)

3.0 FINDINGS UNDER CEQA

3.1 Purpose

CEQA requires the District to make written findings of fact for each significant environmental impact identified in the Final EIR (State CEQA Guidelines §15091). The purpose of the findings is to systematically restate the significant effects of the proposed project on the environment and to determine the feasibility of mitigation measures and alternatives identified in the Final EIR that would avoid or substantially lessen the significant environmental effects. Once it has adopted sufficient measures to avoid or substantially lessen a significant impact, the District is not required to adopt every mitigation measure identified in the Final EIR or otherwise brought to its attention. If significant impacts remain after application of all feasible mitigation measures, the District must review the alternatives identified in the Final EIR and determine if they are feasible. These findings set forth the reasons, and the evidence in support of, the District's determinations.

3.2 Terminology

A "finding" is a written statement made by the District that explains how it dealt with each significant impact and alternative identified in the Final EIR. Each finding

contains a conclusion regarding each significant impact, substantial evidence supporting the conclusion, and an explanation of how the substantial evidence supports the conclusion.

For each significant effect identified in the Final EIR, the District is required by State CEQA Guidelines §15091(a) to make a written finding reaching one or more of the following conclusions:

- (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effect identified in the EIR;
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency; or
- (3) Specific legal, economic, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

A mitigation measure or an alternative is considered “feasible” if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (State CEQA Guidelines §15364). The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417). “[F]easibility under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors” (*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715).

With respect to a project for which significant impacts are not avoided or substantially lessened either through the adoption of feasible mitigation measures or a feasible alternative, a public agency, after adopting proper findings, may nevertheless approve the project if the agency adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s benefits rendered acceptable its unavoidable adverse environmental effects. (State CEQA Guidelines §§15093, 15043 (b); see also Public Resources Code §21081(b)). The California Supreme Court has stated, “[t]he wisdom of approving...any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 576). A statement of overriding considerations is required for the approved project because it would have significant unavoidable environmental impacts on the following areas, which are described in detail in Volume 2 (Final EIR), Chapter 4, *Environmental Impacts*, and Chapter 5, *Cumulative Impacts*:

- Direct/project-level impacts on GHG emissions and climate change; noise and vibration; and transportation, circulation, and parking; and
- Cumulative impacts on GHG emissions and climate change; and transportation, circulation, and parking.

3.3 Legal Effect

To the extent these findings conclude mitigation measures identified in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the District hereby binds itself and any other responsible parties, including future project applicants and their successors in interest, to implement those mitigation measures. These findings are not merely informational, but constitute a binding set of obligations upon the District and responsible parties, which will take effect if and when the Board adopts a resolution certifying the Final EIR and adopts resolution(s) for the necessary project approvals.

3.4 Mitigation Monitoring and Reporting Program

In addition to adopting these findings, the District also adopts a Mitigation Monitoring and Reporting Program pursuant to Public Resources Code §21081.6 and State CEQA Guidelines §15097. This program is designed to ensure the proposed project complies with the feasible mitigation measures identified below during implementation of the approved project. The program is set forth in the “Mitigation Monitoring and Reporting Program for the National City Bayfront Projects & Plan Amendments,” which is adopted by the District concurrently with these findings and is incorporated herein by this reference (Final EIR Attachment 1, *Mitigation Monitoring and Reporting Program*).

4.0 FINDINGS REGARDING POTENTIAL DIRECT AND INDIRECT SIGNIFICANT EFFECTS

As indicated in the EIR, the proposed project could result in direct and indirect significant environmental effects with respect to aesthetics and visual resources; air quality and health risk; biological resources; cultural resources, tribal cultural resources, and paleontological resources; energy; greenhouse gas emissions and climate change; hazards and hazardous materials; land use and planning; noise and vibration; transportation, circulation, and parking; and utilities and service systems. These potential significant environmental effects, and the mitigation measures identified to avoid or substantially lessen them, are discussed in detail in the applicable sections of Volume 2 (Final EIR). A summary of significant impacts and mitigation measures for the proposed project is set forth in Volume 2 (Final EIR), Chapter 2, *Executive Summary*, Table 2-3.

Set forth below are the findings regarding the potential direct and indirect significant effects of the approved project. The findings incorporate by reference the discussion of potentially significant impacts and mitigation measures contained in the Final EIR.

4.1 Aesthetics and Visual Resources

4.1.1 Impact-AES-1: Obstructed Views Within a Vista During Project Construction (GB Capital Component)

Potentially Significant Impact: The EIR identifies a potentially significant impact on aesthetics and visual resources (Impact-AES-1) related to construction activities in the marina, on the jetty, and in Sweetwater Channel associated with the GB Capital Component (Phase 1) that would result in significant temporary impacts on vista areas from Key Observation Point (KOP) 2. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.1, *Aesthetics and Visual Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on aesthetics and visual resources identified as Impact-AES-1 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on aesthetics and visual resources (Impact-AES-1) is analyzed in Volume 2 (Final EIR), Section 4.1, *Aesthetics and Visual Resources*. Potential Impact-AES-1 would result from construction activities in the marina, on the jetty, and in Sweetwater Channel causing significant temporary impacts on vista areas from KOP 2.

The potentially significant impact on aesthetics and visual resources (Impact-AES-1) would be reduced to below a level of significance by implementation of mitigation measure MM-AES-1: Install Construction Screening and Fencing, and MM-AES-2: Install Wayfinding and Public Access Signage, which are set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR. These mitigation measures are discussed in Section 4.1, *Aesthetics and Visual Resources*, of Volume 2 of the EIR and provide as follows:

MM-AES-1: Install Construction Screening and Fencing (GB Capital Component). GB Capital shall require their contractors to install construction-screening fencing around the perimeter of the jetty prior to the start of construction of the modular cabins and extended dock and pier with boat slips that shall shield construction activities from sight. The screening shall remain until construction equipment is removed from this area. Construction-screening fencing shall be depicted on construction plans and, prior to issuance of construction permits, the District's Development Services Department shall confirm such fencing is depicted on the appropriate construction plans. Construction screening shall include, at a minimum, installation of 8-foot-tall fencing covered with view-blocking materials, such as tarp or mesh in a color that blends in with the existing environment (e.g., green or blue), for the duration of the construction period.

MM-AES-2: Install Wayfinding and Public Access Signage (GB Capital Component). Prior to construction of any GB Capital-related project elements

within the marina, on the jetty, or in Sweetwater Channel that would affect the view provided by KOP 2, GB Capital or their contractors shall install temporary legible wayfinding signage in visible areas (e.g., in the general vicinity of the existing overlook at KOP 2 and where the existing waterside promenade on the Pier 32 Marina intersects with Goesno Place) that directs the public to other available scenic vistas that would not be affected by construction activities and would provide substantially similar views, such as KOP 4 and KOP 5. GB Capital shall require that contractors submit the signage characteristics (e.g., size, color, materials) to the District's Development Services Department for review and approval prior installation of the signage—provided however, that the temporary wayfinding signage shall at a minimum depict the direction and distance to the alternate KOP(s). Photographic proof of the installation of wayfinding signage shall be submitted to the District's Development Services Department prior to the beginning of construction activities of the GB Capital Component (Phase 1) that involve construction in the marina, on the jetty, or in Sweetwater Channel and may be removed on completion of construction.

Implementation of mitigation measures MM-AES-1 and MM-AES-2 would reduce impacts on existing views and access to existing vistas associated with construction of Phase 1 of the GB Capital Component to a less than significant level.

4.1.2 Impact-AES-2: Inaccessibility of a Vista Area During Project Construction (GB Capital Component)

Potentially Significant Impact: The EIR identifies a potentially significant impact on aesthetics and visual resources (Impact-AES-2) related to construction activities associated with the GB Capital Component (Phase 1) that partially obstruct the view from KOP 3 and could restrict access to the KOP for up to two years. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.1, *Aesthetics and Visual Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on aesthetics and visual resources identified as Impact-AES-2 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on aesthetics and visual resources (Impact-AES-2) is analyzed in Volume 2 (Final EIR), Section 4.1, *Aesthetics and Visual Resources*. Potential Impact-AES-2 would result from construction activities partially obstructing the view from KOP and potentially restricting access to the KOP for up to two years.

The potentially significant impact on aesthetics and visual resources (Impact-AES-2) would be reduced to below a level of significance by implementation of mitigation measure MM-AES-3: Establish a Temporary Scenic Vista, which is set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR.

This mitigation measure is discussed in Section 4.1, *Aesthetics and Visual Resources*, of Volume 2 of the EIR and provides as follows:

MM-AES-3: Establish a Temporary Scenic Vista (GB Capital Component). Prior to the commencement of construction of the GB Capital Component (Phase 1), GB Capital shall require its contractors to establish a temporary scenic vista directly east of KOP 3, adjacent to the western end of the existing Bayshore Bikeway bike path (before the existing path turns north), which shall be accessible to the public throughout the entirety of the construction phase of the GB Capital Component. The project proponent shall provide temporary wayfinding signage at the GB Capital Component site and signage at the temporary scenic vista identifying it as a temporary scenic vista. Photographic proof of the establishment of the temporary scenic vista shall be submitted to the District's Development Services Department prior to the beginning of construction activities of the GB Capital Component (Phase 1).

Implementation of mitigation measure MM-AES-3 would reduce impacts on existing views and access to existing scenic vistas associated with construction of Phase 1 of the GB Capital Component to less than significant levels by establishing a temporary scenic vista directly east of KOP 3.

4.1.3 Impact-AES-3: Reduction in Availability of Existing Views (GB Capital Component)

Potentially Significant Impact: The EIR identifies a potentially significant impact on aesthetics and visual resources (Impact-AES-3) related to the operation of GB Capital Component (Phase 1) that would introduce several new features that would clutter the existing viewshed from KOP 2 and reduce availability of existing middleground and background views. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.1, *Aesthetics and Visual Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on aesthetics and visual resources identified as Impact-AES-3 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on aesthetics and visual resources (Impact-AES-3) is analyzed in Volume 2 (Final EIR), Section 4.1, *Aesthetics and Visual Resources*. Potential Impact-AES-3 would result from the introduction of new features related to the operation of GP Capital Component (Phase 1) that would clutter the existing viewshed from KOP 2 and reduce availability of existing middleground and background views.

The potentially significant impact on aesthetics and visual resources (Impact-AES-3) would be reduced to below a level of significance by implementation of mitigation measures MM-AES-4: Install Permanent Wayfinding Signage for the Open Space Area on Jetty, and MM-AES-5: Extend the Existing Clear Zone Across Jetty, which are set forth in full in the MMRP and Table 2-3 in the *Executive*

Summary of the Final EIR. These mitigation measures are discussed in Section 4.1, *Aesthetics and Visual Resources*, of Volume 2 of the EIR and provide as follows:

MM-AES-4: Install Permanent Wayfinding Signage for the Open Space Area on Jetty (GB Capital Component). GB Capital shall construct the open space/park area on the jetty concurrently with the construction of the modular cabins and shall finish the open space area prior to or concurrently with said cabins. When construction of the modular cabins is complete, GB Capital or its contractors shall install permanent wayfinding signage that is legible and in a publicly accessible area at KOP 2/the existing Pier 32 overlook to direct visitors to the open space area on the jetty, where views of Sweetwater Channel to the southeast, south, and southwest would be available. GB Capital or its contractors shall submit the signage characteristics (e.g., size, color, materials) to the District's Development Services Department for review and approval prior to installation—provided, however, that the wayfinding signage shall at a minimum contain the distance and direction to the open space area. Photographic proof of the wayfinding signage shall be submitted to the District's Development Services Department prior to issuance of the certificate of occupancy.

MM-AES-5: Extend the Existing Clear Zone Across Jetty (GB Capital Component). The project proponent for the GB Capital Component shall extend the existing minimum 20-foot-wide clear zone along the Pier 32 overlook southward across the jetty. The existing minimum 20-foot-wide clear zone and the proposed 20-foot-wide clear zone on the jetty shall be identified on the project plans. The open space/park area proposed on the jetty can be located within the 20-foot-wide clear zone. Prior to issuance of a coastal development permit that includes construction of the modular cabins, the District's Development Services Department shall confirm that the existing and proposed minimum 20-foot-wide clear zone is identified and observed on the project plans.

Implementation of mitigation measures MM-AES-4 and MM-AES-5 would reduce impacts on existing views and access to existing scenic vistas associated with operation of Phase 1 of the GB Capital Component to less than significant levels by providing wayfinding signage to a similar vista and requiring a minimum 20-foot-wide clear zone along the existing Pier 32 overlook southward across the jetty to protect the view corridor.

4.1.4 Impact-AES-5: Development of the GB Capital Component Would Potentially Affect Visual Character Within the Pier 32 Marina (GB Capital Component)

Potentially Significant Impact: Because the GB Capital project is designed at a schematic level, the EIR identified potentially significant impacts on aesthetics and visual resources (Impact-AES-5) and the potential for the project to be inconsistent with Section 30251 of the California Coastal Act. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.1, *Aesthetics and Visual Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on aesthetics and visual resources identified as Impact-AES-5 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on aesthetics and visual resources (Impact-AES-5) is analyzed in Volume 2 (Final EIR), Section 4.1, *Aesthetics and Visual Resources*. Potential Impact-AES-5 would result from portions of GB Capital Component being inconsistent with Section 30251 of the California Coastal Act since it is not yet fully designed.

The potentially significant impact on aesthetics and visual resources (Impact-AES-5) would be reduced to below a level of significance by implementation of mitigation measure MM-AES-7: Design the GB Capital Component to Provide Continuity, which is set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR. This mitigation measure is discussed in Section 4.1, *Aesthetics and Visual Resources*, of Volume 2 of the EIR and provides as follows:

MM-AES-7: Design the GB Capital Component to Provide Continuity (GB Capital Component). To provide a natural continuity with the existing marina complex, the GB Capital Component shall be designed and constructed using a similar architectural style and materials as the existing Pier 32 Marina. Prior to issuance of the Coastal Development Permit for both phases of the GB Capital Component, the District shall review plans for the GB Capital Component to ensure design continuity with the existing marina complex.

Implementation of mitigation measure MM-AES-7 would reduce potential impacts from the GB Capital Component (Impact-AES-5) to a less-than-significant level by it to be designed and constructed using a similar architectural style and materials as the existing Pier 32 Marina to provide a natural continuity with the existing marina complex.

4.1.5 Impact-AES-6: Reduction in Nighttime Views Due to Additional Lighting (GB Capital Component)

Potentially Significant Impact: The EIR identifies a potentially significant impact on aesthetics and visual resources (Impact-AES-6) resulting from the addition of new parking and landscape lighting as part of the development of GB Capital Component, which could disrupt wildlife behaviors and affect nighttime views. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.1, *Aesthetics and Visual Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on aesthetics and visual resources identified as Impact-AES-6 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on aesthetics and visual resources (Impact-AES-6) is analyzed in Volume

2 (Final EIR), Section 4.1, *Aesthetics and Visual Resources*. Potential Impact-AES-6 would result from the addition of new outdoor lighting as part of the development of GB Capital Component, which could disrupt wildlife behaviors and affect nighttime views.

The potentially significant impact on aesthetics and visual resources (Impact-AES-6) would be reduced to below a level of significance by implementation of mitigation measures MM-AES-8: Limit Lighting, and MM-AES-9: Shield Security and Safety Lighting, which are set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR. These mitigation measures are discussed in Section 4.1, *Aesthetics and Visual Resources*, of Volume 2 of the EIR and provide as follows:

MM-AES-8: Limit Lighting (GB Capital Component). Proposed outdoor lighting in the parking lots, in the marina, and outside of buildings shall not exceed a correlated color temperature of 2,700 Kelvins in order to emit less high frequency blue light. The project proponent shall provide details (i.e., Kelvins) of the proposed lighting to the District's Development Services Department for review and approval prior to commencement of construction of the GB Capital Component.

MM-AES-9: Shield Security and Safety Lighting (GB Capital Component). Security and safety lighting proposed around the RV park, retail, marina, jetty, parking lot, hotels, and other outdoor common spaces shall consist of full cutoff pole-top fixtures with full cutoff shields to minimize light spillage into adjacent properties and land uses. The project proponent shall provide details of the proposed lighting to the District's Development Services Department for review and approval prior to commencement of construction of the GB Capital Component.

Implementation of mitigation measures MM-AES-8 and MM-AES-9 would reduce potential impacts on nighttime views of the adjacent land uses from additional lighting sources (Impact-AES-6) by requiring lighting features that would emit less high-frequency blue light and reduce light spillage from the GB Capital Component to the adjacent land uses.

4.2 Air Quality and Health Risk

4.2.1 Impact-AQ-1: New Land Use Designations Not Accounted for in the RAQS and SIP (All Project Components)

Potentially Significant Impact: The EIR identifies a potentially significant impact on air quality and health risk (Impact-AQ-1) resulting from the new land use designations not being accounted for in the San Diego Regional Air Quality Strategy (RAQS) and state implementation plan (SIP). Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.2, *Air Quality and Health Risk*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on air quality and health

risk identified as Impact-AQ-1 in the EIR. Further, pursuant to State CEQA Guidelines §15091(a)(2), certain of the changes or alterations are within the responsibility and jurisdiction of other public agencies and not the District and such changes can and should be adopted by such other agencies.

Facts in Support of Finding: The potentially significant impact of the proposed project on air quality and health risk (Impact-AQ-1) is analyzed in Volume 2 (Final EIR), Section 4.2, *Air Quality and Health Risk*. Potential Impact-AQ-1 would result from the new land use designations not being accounted for in the RAQS and SIP. The land use changes were not known at the time the RAQS and SIP were last updated. The emissions associated with the proposed land uses could be greater than under existing land uses and these new emissions have not been accounted for in the current RAQS and SIP.

The potentially significant impact on air quality and health risk (Impact-AQ-1) would be reduced to below a level of significance by implementation of mitigation measure MM-AQ-1: Update the RAQS and SIP with New Growth Projections, which is set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR. This mitigation measure is discussed in Section 4.2, *Air Quality and Health Risk*, of Volume 2 of the EIR and provides as follows:

MM-AQ-1: Update the RAQS and SIP with New Growth Projections (All Project Components). Within 6 months from approval of the proposed project, the District and City shall provide SANDAG with revised employment growth forecasts that account for buildout of the proposed project. This includes the amendments to the District's PMP, and the City's General Plan, LCP, HDSAP, and LUC to account for the proposed land use and jurisdictional changes. The District and the City shall coordinate with SANDAG and the SDAPCD to ensure the RAQS and SIP are updated as part of the next revision cycle to reflect the updated growth and land use assumptions of the project as well as the PMP and the City's General Plan as a whole.

Implementation of mitigation measure MM-AQ-1 would reduce potential impacts associated with inconsistency with the RAQS and SIP to a less-than-significant level by ensuring the administrative process to update SANDAG's growth projections is completed and the RAQS and SIP are updated by SANDAG and the SDAPCD. This would inform the air quality strategies contained within the RAQS and SIP and ensure these air quality plans adequately consider the redesignated uses at the project site.

4.2.2 Impact-AQ-2: Emissions in Excess of Criteria Pollutant Thresholds During Proposed Project Construction (All Components)

Potentially Significant Impact: The EIR identifies a potentially significant impact on air quality and health risk (Impact-AQ-2) associated with unmitigated project emissions during construction exceeding applicable significance thresholds.

Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.2, *Air Quality and Health Risk*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on air quality and health risk identified as Impact-AQ-2 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on air quality and health risk (Impact-AQ-2) is analyzed in Volume 2 (Final EIR), Section 4.2, *Air Quality and Health Risk*. Potential Impact-AQ-2 would result from unmitigated project emissions during construction exceeding applicable significance thresholds that have been set to attain the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS) for criteria pollutants.

The potentially significant impact on air quality and health (Impact-AQ-2) would be reduced to below a level of significance by implementation of mitigation measures MM-AQ-2: Implement Diesel Emission-Reduction Measures During Construction (All Project Components), MM-AQ-3: Implement Fugitive Dust Control During Construction (All Project Components), MM-AQ-4: Use Low-VOC Interior and Exterior Coatings During Construction (GB Capital Component and City Program – Development Component), MM-AQ-5: Use Modern Harbor Craft During Construction Activities (GB Capital Component), and MM-AQ-6: Stagger Overlapping Construction Phases and Components (All Project Components). These mitigation measures are set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR.

These mitigation measures are discussed in Section 4.2, *Air Quality and Health Risk*, of Volume 2 of the EIR and provide as follows:

MM-AQ-2: Implement Diesel Emission-Reduction Measures During Construction (All Project Components). To control VOC, NOX, CO, PM10, and PM2.5 emissions during construction, the project proponent/operator and/or its contractor(s) shall implement or require implementation by its construction contractor(s) the following measures during construction of their corresponding proposed project component, and shall provide verification to the District (or City).

Prior to the commencement of construction activities of any project component, the project proponent for that project component shall submit a list of equipment to be used and their equipment specifications (model year, engine tier, horsepower) to the District's Development Services Department (for the components' within the District's jurisdiction) or the City's Community Development Department (for the component's within the City's jurisdiction) to ensure the construction equipment list is consistent with the following requirements. Following construction, the project proponent/operator and/or its contractor(s) shall provide written evidence that the construction was consistent with following requirements:

- For all construction between 2022 and 2025, ensure that all off-road diesel equipment engines over 25 horsepower shall be equipped with EPA Tier 3 or cleaner engines, unless Tier 3 construction equipment is not available within 50 miles of the project site. The project proponent shall document and submit evidence to the District prior to commencement of construction activities that Tier 3 or cleaner equipment shall be used, or that Tier 3 or better equipment is not available for use during the entire duration of that project's construction period through 2025.
- For all construction beyond 2025, ensure that all off-road diesel equipment engines over 25 horsepower shall be equipped with EPA Tier 4 or cleaner engines, unless Tier 4 construction equipment is not available within 50 miles of the project site. The project proponent shall document and submit evidence to the District prior to commencement of construction activities that Tier 4 or cleaner equipment shall be used, or that Tier 4 or cleaner equipment is not available for use during the entire duration of that project's construction period beyond 2025.
- Use renewable diesel fuel in all heavy-duty off-road diesel-fueled equipment. Renewable diesel must meet the most recent ASTM D975 specification for Ultra Low Sulfur Diesel and have a carbon intensity no greater than 50% of diesel with the lowest carbon intensity among petroleum diesel fuels sold in California.
- Maintain all equipment in accordance with the manufacturers' specifications.
- Turn off all construction-related equipment, including heavy-duty equipment, motor vehicles, and portable equipment, when not in use for more than 3 minutes.
- Use zero or near-zero emissions equipment in-lieu of diesel or gasoline-powered equipment, where such zero or near-zero equipment is commercially available within 50 miles of the project site.
- Use diesel particulate filters (or the equivalent) if permitted under manufacturer's guidelines for on-road and off-road diesel equipment.

MM-AQ-3: Implement Fugitive Dust Control During Construction (All Project Components). To control fugitive PM10 and PM2.5 emissions during construction of any project component, the project proponent/operator and/or its contractor(s) for each component shall implement the following dust control measures in compliance with SDAPCD Rule 55. The following shall be conditions in any Coastal Development Permit or City-issued permit (such as grading and building permits) and shall be implemented by that project proponent/operator and/or its contractor(s).

- Water the grading areas at a minimum of three times daily to minimize fugitive dust.
- Stabilize graded areas as quickly as possible to minimize fugitive dust.
- Apply chemical stabilizer or pave the last 100 feet of internal travel path within the construction site prior to public road entry.
- Install wheel washers adjacent to a paved apron prior to vehicle entry on

- public roads.
- Remove any visible track-out into traveled public streets within 30 minutes of occurrence.
 - Wet wash the construction access point at the end of each workday if any vehicle travel on unpaved surfaces has occurred.
 - Provide sufficient perimeter erosion control to prevent washout of silty material onto public roads.
 - Cover haul trucks or maintain at least 12 inches of freeboard to reduce blow-off during hauling.
 - Suspend all soil disturbance and travel on unpaved surfaces if winds exceed 25 mph.
 - Cover/water onsite stockpiles of excavated material.
 - Enforce a 15 mph speed limit on unpaved surfaces.
 - On dry days, sweep up any dirt and debris spilled onto paved surfaces immediately to reduce re-suspension of particulate matter caused by vehicle movement. Clean approach routes to construction sites daily for construction-related dirt in dry weather.
 - Hydroseed, landscape, or develop as quickly as possible all disturbed areas and as directed by the District and/or SDAPCD to reduce dust generation.
 - Limit the daily grading volumes/area.

The project proponent/operator and/or its contractor(s) for each component shall submit evidence of the use of fugitive dust reduction measures to the District or City after the completion of construction.

MM-AQ-4: Use Low-VOC Interior and Exterior Coatings During Construction (GB Capital Component and City Program – Development Component). To control VOC emissions during any painting activities during construction, the project proponent/operator and/or its contractor(s) for all phases of GB Capital Component (Phase 1 and Phase 2) and City Program – Development Component shall use low-VOC coatings for all surfaces that go beyond the requirements of SDAPCD Rule 67.0. If architectural coatings (painting) of any single component or multiple components would exceed 10,000 square feet per day, then each project component active on that day shall use coatings with a VOC content of 10 grams per liter or less for all surfaces to be painted. If architectural coatings (painting) of any single component or multiple components would be below 10,000 square feet per day, then each component shall use coatings with a VOC content of 75 grams per liter or less. Prior to the commencement of construction activities associated with the GB Capital Component, the project proponent shall submit a list of coatings to be used, their respective VOC content, and a summary of surface area to be painted to the District's Development Services Department. Prior to the commencement of construction activities associated with the City Program – Development Component, the project proponent shall submit a list of coatings to be used, their respective VOC content, and a summary of surface area to be painted to the City's Community Development Department. The District and City, for their respective jurisdictions, may conduct inspections during construction to

verify the use of low-VOC coatings.

MM-AQ-5: Use Modern Harbor Craft During Construction Activities (GB Capital Component). Prior to commencing any waterside construction or activities, the project proponent/operator and/or its contractor(s) for the GB Capital Component shall ensure that any harbor craft, including but not limited to tugboats, pusher tugs, tow boats, work boats, crew boats, and supply boats for use during the duration of any in-water work, shall meet the following criteria:

- For all construction between 2022 and 2025, ensure all equipment is Tier 3 or better (cleaner).
- For all construction after 2025, ensure all equipment is alternatively fueled or electrically powered. If alternatively fueled or electrically powered equipment that emits less emission than Tier 4 or better (cleaner) is not available, then the project proponent shall ensure all equipment is Tier 4 or better.
- Use renewable diesel fuel in all heavy-duty off-road diesel-fueled equipment. Renewable diesel must meet the most recent ASTM D975 specification for Ultra Low Sulfur Diesel and have a carbon intensity no greater than 50% of diesel with the lowest carbon intensity among petroleum diesel fuels sold in California.

If clean harbor craft are not available within 200 miles of the project site for the duration of all dredging activities, the project proponent/operator and/or its contractor(s) for the GB Capital Component shall prioritize use of equipment that is maintained and properly tuned in accordance with manufacturers' specifications. The project proponent/operator and/or its contractor(s) for the GB Capital Component shall document and submit evidence to the District's Development Services Department and/or the City's Community Development Department prior to commencement of waterside construction activities, that equipment meeting the above tiering requirements or better standards is not available for use during the duration of all in-water activities. Regardless of the equipment used, the project proponent/operator and/or its contractor(s) for each component shall verify that all equipment has been checked by a mechanic experienced with such equipment and determined to be running in proper condition prior to admittance into the construction area. The project proponent/operator and/or its contractor(s) for each component shall submit a report prepared by the mechanic experienced with such equipment of the condition of the construction and operations vehicles and equipment to the District's Development Services Department and/or the City's Community Development Department prior to commencement of their use.

MM-AQ-6: Stagger Overlapping Construction Phases and Components (All Project Components). Each project proponent/operator and/or its contractor(s) shall submit a construction schedule and assumed construction activity at least 3 months prior to the start of construction to the District and City. If grading and waterside construction activities (associated with GB Capital Component Phase 1)

are to take place at the same time, they shall be reduced or staggered as to not to exceed daily air quality thresholds and such reduction or staggering shall be a condition of grading and building permits. However, multiple project components' grading may take place at the same time. The District and City, for their respective jurisdictions, may conduct inspections during construction to verify activity.

Implementation of mitigation measures MM-AQ-2 through MM-AQ-6 would reduce potential impacts from construction-related emissions to less-than-significant levels, as shown in Tables 4.2-18 through 4.2-23 in Section 4.2, *Air Quality and Health Risk*, of Volume 2 of the EIR, by implementing measures and practices that reduce emissions and limit the overlap of activities associated with separate projects and project components.

4.2.3 Impact-AQ-3: Emissions in Excess of Criteria Pollutant Thresholds During Proposed Project Operation (GB Capital Component, City Program Component, and Balanced Plan)

Potentially Significant Impact: The EIR identifies a potentially significant impact on air quality and health risk (Impact-AQ-3) resulting unmitigated emissions during project operation exceeding criteria pollutant thresholds for volatile organic compound (VOC) and particulate matter (PM)₁₀. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.2, *Air Quality and Health Risk*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on air quality and health risk identified as Impact-AQ-3 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on air quality and health risk (Impact-AQ-3) is analyzed in Volume 2 (Final EIR), Section 4.2, *Air Quality and Health Risk*. Potential Impact-AQ-3 would result from emissions during the operation of the GB Capital Component, City Program Component, and the Balanced Plan exceeding the VOC and PM₁₀ thresholds that have been set to attain the NAAQS and CAAQS. The major component of VOC and PM₁₀ emissions during operation are woodburning hearths and fireplaces that may be attributed to RV park uses.

The potentially significant impact on air quality and health risk (Impact-AQ-3) would be reduced to below a level of significance by implementation of mitigation measure MM-AQ-7: Restrict Installation of Fireplaces and Firepits in New Construction, which is set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR. This mitigation measure is discussed in Section 4.2, *Air Quality and Health Risk*, of Volume 2 of the EIR and provides as follows:

MM-AQ-7: Restrict Installation of Fireplaces and Firepits in New Construction (City Program, GB Capital Component [Phase 1 and Phase 2], and Balanced Plan). The

proponent/operator and/or its contractor(s) of the City Program – Development Component, the GB Capital Component, and the Balanced Plan shall ensure that no outdoor woodburning stoves, fireplaces, or firepits are installed, and all fireplaces and firepits shall be fueled by natural gas. The project proponent/operator and/or its contractor(s) for each component shall submit evidence that no outdoor woodburning stoves, fireplaces, or firepits are wood-burning to the District (or City for City Program), and the District (or City for City Program) may conduct inspections during construction to verify the details that were submitted are accurate.

Implementation of mitigation measure MM-AQ-7 would reduce potential impacts associated with emissions from the operation of the proposed project to a less-than-significant level, as shown in Table 4.2-24 in Section 4.2, *Air Quality and Health Risk*, of Volume 2 of the EIR, by restricting the installation of fireplaces and firepits in new construction.

4.2.4 Impact-AQ-4: Health Effects During Construction (All Project Components)

Potentially Significant Impact: The EIR identifies a potentially significant impact on human health risk (Impact-AQ-4) from project-related emissions during construction exceeding applicable significance thresholds for VOC, PM10, PM2.5, nitrogen oxide (NO_x), and carbon monoxide (CO). Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.2, *Air Quality and Health Risk*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on air quality and health risk identified as Impact-AQ-4 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on air quality and health risk (Impact-AQ-4) is analyzed in Volume 2 (Final EIR), Section 4.2, *Air Quality and Health Risk*. Potential Impact-AQ-4 would result from unmitigated project emissions during construction exceeding applicable significance thresholds that have been set to attain the NAAQS and CAAQS, the purpose of which is to provide for the protection of public health.

The potentially significant impact on air quality and health (Impact-AQ-4) would be reduced to below a level of significance by implementation of mitigation measures MM-AQ-2: Implement Diesel Emission-Reduction Measures During Construction (All Project Components), MM-AQ-3: Implement Fugitive Dust Control During Construction (All Project Components), MM-AQ-4: Use Low-VOC Interior and Exterior Coatings During Construction (GB Capital Component and City Program – Development Component), MM-AQ-5: Use Modern Harbor Craft During Construction Activities (GB Capital Component), and MM-AQ-6: Stagger Overlapping Construction Phases and Components (All Project Components). These mitigation measures are set forth in full above and in the MMRP and Table

2-3 in the *Executive Summary* and are discussed in Section 4.2, *Air Quality and Health Risk*, in Volume 2 of the Final EIR.

Implementation of mitigation measures MM-AQ-2 through MM-AQ-6 would reduce potential health impacts from construction-related emissions to less-than-significant levels by implementing measures and practices that reduce emissions and limiting the overlap of activities associated with separate projects and project components.

4.3 Biological Resources

4.3.1 Impact-BIO-1: Impacts on Estuary Seablite During Construction (Bayshore Bikeway Component Route 3)

Potentially Significant Impact: The EIR identifies a potentially significant impact on biological resources (Impact-BIO-1) related to construction activities that could result in direct mortality of estuary seablite, a special-status plant species. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.3, *Biological Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on biological resources identified as Impact-BIO-1 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on biological resources (Impact-BIO-1) is analyzed in Volume 2 (Final EIR), Section 4.3, *Biological Resources*. Potential Impact-BIO-1 would result from indirect effects, such as trampling or other inadvertent impacts on estuary seablite during construction due to the plant's proximity to the work areas for the Bayshore Bikeway Component.

The potentially significant impact on biological resources (Impact-BIO-1) would be reduced to below a level of significance by implementation of mitigation measure MM-BIO-1: Conduct Surveys and Monitoring for Estuary Seablite (Bayshore Bikeway Component Route 3). This mitigation measure is set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR and provides as follows:

MM-BIO-1: Conduct Surveys and Monitoring for Estuary Seablite (Bayshore Bikeway Component 3): An authorized biologist shall be present onsite during construction within or adjacent to suitable habitat for estuary seablite to ensure that avoidance and minimization measures are in place according to specifications and to monitor construction in the vicinity of the estuary seablite population at a frequency necessary to ensure that avoidance and minimization measures are followed properly. The biological monitor shall report any noncompliance to CDFW within 24 hours.

Before ground disturbance or other activities associated with construction of

Bayshore Bikeway Component Route 3, a qualified botanist shall survey all proposed construction and access areas for presence of special-status plant species. Preconstruction surveys shall occur during the appropriate season and in accordance with established protocols up to 1 year in advance of construction, provided temporary construction easements have been granted to construction areas. These surveys shall be conducted in all construction areas that contain suitable habitat for special-status plant species. These surveys shall be for the purpose of documenting plant locations relative to the construction areas and ensure avoidance, where feasible. If construction starts prior to the appropriate season, and it is unfeasible to conduct preconstruction surveys, then plant documentation for avoidance and ESA fencing shall rely on previous population locations.

Populations of estuary seablite or other special-status plant species observed during these surveys shall be clearly mapped and recorded, along with the approximate numbers of individuals in each population and their respective conditions. Construction areas and construction access roads shall avoid loss of individual estuary seablite and other special status species.

MM-BIO-1 requires (1) a qualified botanist to conduct a preconstruction survey to document the location of special-status plant species and ensure avoidance, and (2) an authorized biologist to be present onsite during construction within or adjacent to suitable habitat for estuary seablite to ensure that avoidance and minimization measures are in place and followed properly. Implementation of mitigation measure MM-BIO-1 would reduce inadvertent impacts on estuary seablite (Impact-BIO-1) to less-than-significant levels by requiring surveys, monitoring, and avoidance measures when construction activities occur in close proximity to habitat for this species.

4.3.2 Impact-BIO-3: Impacts on Nesting Avian Species (GB Capital Component and Bayshore Bikeway Component Route 3)

Potentially Significant Impact: The EIR identifies a potentially significant impact on biological resources (Impact-BIO-3) from construction-related noise (e.g., grading, site preparation) in close proximity to salt marsh habitats supporting Belding's Savannah sparrow or light-footed Ridgway's rail and in-water construction near low-potential California least tern nesting habitat (although very low probability to occur) that could cause nest or chick abandonment. These impacts would be a violation of the Migratory Bird Treaty Act (MBTA) or California Fish and Game Code (CFGF). Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.3, *Biological Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on biological resources identified as Impact-BIO-3 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on biological resources (Impact-BIO-3) is analyzed in Volume 2 (Final EIR), Section 4.3, *Biological Resources*. Potential Impact-BIO-3 would result from the noise from construction activity that could impede the use of bird nesting sites during the nesting season. Disturbance to nesting activity would be considered a significant impact in violation of the MBTA or CFGC.

The potentially significant impact on biological resources (Impact-BIO-3) would be reduced to below a level of significance by mitigation measure MM-BIO-3: Avoid Avian Species During the Breeding Season. This mitigation measure is set forth in full in the MMRP and in Table 2-3 in the *Executive Summary* of the Final EIR and provides as follows:

MM-BIO-3: Avoid Construction within 300 Feet of Avian Species During the Breeding Season (GB Capital Component, and Bayshore Bikeway Component Route 3). All project construction activities occurring within 300 feet of salt marsh habitat (e.g., portions of Bayshore Bikeway Component Route 3 and some of the GB Capital Component) shall take place outside of the light-footed Ridgway's rail and Belding's Savannah sparrow breeding season (i.e., February 15–September 15); no construction work shall occur within 300 feet of the marsh during this time period.

To ensure protection of California least terns nesting at the D Street colony, project proponents shall avoid impact pile during the least tern nesting season. The nesting season for California least terns is defined here as April 1 through September 15.

MM-BIO-3 requires all construction activities occurring within 300 feet of salt marsh habitat to take place outside of the light-footed Ridgway's rail and Belding's Savannah sparrow breeding season (i.e., February 15–September 15). Implementation of mitigation measure MM-BIO-3 would reduce the biological resources impact associated with disturbance to nesting activity (Impact-BIO-3) to less-than-significant levels by requiring that the start of construction activities occurs outside of the breeding season for light-footed Ridgway's rail and Belding's Savannah sparrow.

4.3.3 Impact-BIO-4: Impacts on Nesting Osprey (Pepper Park Expansion, Pasha Rail Improvement Component, and Roadway Configuration in Balanced Plan)

Potentially Significant Impact: The EIR identifies a potentially significant impact on biological resources (Impact-BIO-4) associated with construction-related noise in close proximity to osprey nests, such as those proposed for the Pepper Park Expansion, Pasha Rail Improvement Component, and roadway improvements envisioned in the Balanced Plan that could cause nest or chick abandonment. These impacts would be inconsistent with the MBTA or CFGC. Detailed

information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.3, *Biological Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on biological resources identified as Impact-BIO-4 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on biological resources (Impact-BIO-4) is analyzed in Volume 2 (Final EIR), Section 4.3, *Biological Resources*. Potential Impact-BIO-4 would result from construction activities could generate noise that has the potential to cause nest or chick abandonment.

The potentially significant impact on biological resources (Impact-BIO-4) would be reduced to below a level of significance by mitigation measure MM-BIO-4: Avoid Impacts on Osprey During Nesting Season (January 15–June 15). This mitigation measure is set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR and provides as follows:

MM-BIO-4: Avoid Impacts on Osprey During Nesting Season (January 15–June 15) (Pepper Park Expansion and Roadway Configuration in Balanced Plan, and Pasha Rail Improvement Component). To ensure nesting ospreys are not disturbed, the project proponent for the Balanced Plan (specifically, the roadway improvements and Pepper Park expansion), as well as the project proponent for the Pasha Rail Improvement Component, shall avoid all noise-generating construction activities during the osprey nesting season (January 15–June 15) within all proposed construction areas or shall implement all of the following:

- Surveys of historical nest locations maintained by the District shall be conducted to determine current occupancy status within 72 hours prior to construction/onset of noise-generating activities. If nests are occupied, or if the nest occupancy cannot be determined due to the height of the nest, the area shall be flagged and mapped on the construction plans, along with an avoidance buffer of sufficient size to avoid impacts on the nest. The project biologist shall determine the size of the avoidance buffer based on behavioral observations, ambient versus construction-related noise, and other data gathered during nest monitoring. All work within the avoidance buffer shall cease until the nesting cycle is complete.
- Surveys of all potential osprey nest locations, including existing utility poles, shall be conducted within 72 hours prior to construction/ onset of noise-generating activities within 500 feet of any proposed work areas where noise-generating activities could affect nest success. These surveys could be conducted concurrent with those anticipated under MM-BIO-5 for MBTA avian species or conducted separately.

If nests are occupied, or if the nest occupancy cannot be determined due to the

height of the nest, the area shall be flagged and mapped on the construction plans, along with an avoidance buffer of sufficient size to avoid impacts on the nest. The project biologist shall determine the size of the avoidance buffer based on behavioral observations, ambient versus construction-related noise, and other data gathered during nest monitoring. All work within the avoidance buffer shall cease until the nesting cycle is complete.

MM-BIO-4 requires the project proponent to avoid all noise-generating construction activities during the osprey nesting season (January 15 – June 15) within all proposed construction areas or to retain a qualified biologist to conduct preconstruction surveys and flag and map occupied nest locations and avoidance buffers on the construction plans. Implementation of mitigation measure MM-BIO-4 would reduce the impact related to construction noise causing potential osprey nest or chick abandonment (Impact-BIO-4) to less-than-significant levels by requiring that the start of construction activities occurs outside of the osprey breeding and nesting season or by implementing preconstruction surveys, construction avoidance and minimization measures (e.g., avoidance buffers), and monitoring.

4.3.4 Impact-BIO-5: Potential Disturbance or Destruction of Nests Protected by the Migratory Bird Treaty Act and CFGC (Pepper Park Expansion and Roadway Configuration in Balanced Plan, GB Capital Component, and Bayshore Bikeway Component Route 3)

Potentially Significant Impact: The EIR identifies a potentially significant impact on biological resources (Impact-BIO-5) from the removal of Diegan coastal sage scrub habitat during construction, as well as noise from construction activity, which could impede the use of bird breeding sites during the nesting season (February 15–September 15). The destruction of an occupied nest would be considered a significant impact if it were a violation of the MBTA or CFGC. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.3, *Biological Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on biological resources identified as Impact-BIO-5 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on biological resources (Impact-BIO-5) is analyzed in Volume 2 (Final EIR), Section 4.3, *Biological Resources*. Potential Impact-BIO-5 would result from active nests being destroyed or abandoned (e.g., due to human disturbance or noise) during construction, such as vegetation removal, grading, or site-preparation activities.

The potentially significant impact on biological resources (Impact-BIO-5) would be reduced to below a level of significance by mitigation measure MM-BIO-5: Avoid Impacts on MBTA Avian Species, Including Non-Listed Avian Species. This

mitigation measure is set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR and provides as follows:

MM-BIO-5: Avoid Impacts on MBTA Avian Species, Including Non-Listed Avian Species (Pepper Park Expansion and Roadway Configuration in Balanced Plan, GB Capital Component, and Bayshore Bikeway Component Route 3). To ensure compliance with the MBTA and similar provisions under CFGC Sections 3503 and 3503.5, the project proponent for the Balanced Plan (specifically, roadway improvements, Pepper Park expansion), GB Capital Component, Pasha Rail Improvement Component, Bayshore Bikeway Component, and City Program – Development Component shall conduct all vegetation removal during the non-breeding season between September 15 and January 14 or shall implement the following:

- If construction activities are scheduled between January 15 and September 14, a biological survey for nesting bird species shall be conducted within the proposed impact area and at least a 300-foot buffer within 72 hours prior to construction. The nesting bird survey is applicable to all avian species protected under the MBTA and Fish and Game Code. The number of surveys required for covering this area shall be commensurate with the schedule for construction and the acreage that shall be covered. Multiple surveys for nesting birds shall be separated by at least 48 hours in order to be confident that nesting is detected, but the survey shall be no more 72 hours prior to the onset of construction.
- If any active nests are detected, the area shall be flagged and mapped on the construction plans, along with an avoidance buffer of sufficient size to avoid impacts on the nest. The project biologist shall determine the size of the avoidance buffer based on behavioral observations, ambient versus construction-related noise, and other data gathered during nest monitoring. All work within the avoidance buffer shall cease until the nesting cycle is complete.
- Nest buffers, nest survey techniques, and nest monitoring requirements shall be determined based on the project proponent's avian biologist. In accordance with this mitigation measure, nest buffers shall be implemented to ensure compliance with the MBTA and Fish and Game Code Sections 3503, 3503.5, and 3513. Additionally, if grading activities, construction activities, or other noise-generating activities lapse for more than 48 hours, an additional nesting bird survey shall be conducted. The results of the nesting bird surveys and buffers, including any determinations to reduce buffers, shall be included in a monitoring report submitted to the project proponent.
- If a nesting bird management plan is required as part of the site-specific impact analysis and mitigation for a particular component, then the parameters in this mitigation measure shall be applied as the minimum requirements for that particular component. More restrictive measures than these can be stipulated in the nesting bird management plan for that

particular project component.

Implementation of MM-BIO-5 would reduce impacts on common and special-status avian species during construction activities (Impact-BIO-5) to less-than-significant levels by requiring that the start of construction activities occurs outside of the breeding and nesting season or implementing construction measures and conducting preconstruction surveys in accordance with the MBTA and similar provisions under Sections 3503 and 3503.5 of the CFGC.

4.3.5 Impact-BIO-6: Bat Roost Site Direct Impacts (GB Capital Component, and Bayshore Bikeway Component Route 3)

Potentially Significant Impact: The EIR identifies a potentially significant impact on biological resources (Impact-BIO-6) related to removal or trimming of suitable roost trees, which could directly harm roosting bats, resulting in mortality of common or special-status bat species. These impacts could result in large bat mortality events and would be significant absent mitigation. Temporary indirect effects, such as noise, vibration, dust, and night lighting from construction, also could disturb roosting bats, should they be present within the area. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.3, *Biological Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on biological resources identified as Impact-BIO-6 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on biological resources (Impact-BIO-6) is analyzed in Volume 2 (Final EIR), Section 4.3, *Biological Resources*. Potential Impact-BIO-6 would result from the removal or trimming of suitable roost trees, which could directly harm roosting bats, should they be present within the area during project construction.

The potentially significant impact on biological resources (Impact-BIO-6) would be reduced to below a level of significance by mitigation measure MM-BIO-6: Conduct Surveys for Maternal Bat Roost Site Surveys and Avoid Seasonal Impacts. This mitigation measure is set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR and provides as follows:

MM-BIO-6: Conduct Surveys for Maternal Bat Roost Site Surveys and Avoid Seasonal Impacts (GB Capital Component and Bayshore Bikeway Component Route 3). Prior to the start of project construction on the GB Capital Component or Bayshore Bikeway Component Route 3, a qualified bat biologist shall conduct a daytime assessment to examine structures and trees suitable for bat use. If bat sign is observed at that time, then nighttime bat surveys shall be conducted to confirm whether the structures or trees with suitable habitat identified during the preliminary assessment are utilized by bats for day roosting or night roosting, ascertain the level of bat foraging and roosting activity at each of these locations,

and perform exit counts to determine visually the approximate number of bats utilizing the roosts. Acoustic monitoring shall also be used during these surveys to identify the bat species present and determine an index of relative bat activity for that site on that specific evening.

If maternity sites are identified during the preconstruction bat habitat assessment, then no construction activities at that location shall be allowed during the maternity season (i.e., April 1–August 31) unless a qualified bat biologist has determined that the young have been weaned. If maternity sites are present, and it is anticipated that construction activities cannot be completed outside of the maternity season, then the qualified bat biologist, in consultation with CDFW, shall complete bat exclusion activities at maternity roost sites either as soon as possible after the young have been weaned or outside of the maternity season, or the qualified bat biologist, in coordination with CDFW, otherwise approves.

The removal of mature trees and snags shall be minimized to the greatest extent practicable. Prior to tree removal or trimming, qualified bat biologist shall examine large trees and snags to ensure that no roosting bats are present. Palm frond trimming, if necessary, shall be conducted outside the maternity season (i.e., April 1–August 31) to avoid potential mortality to flightless young and outside the bat hibernation season (November–February).

Implementation of MM-BIO-6 would avoid impacts on bat maternal roost colonies by requiring that project proponents survey for maternal bat roost sites and avoid impacts on these sites through seasonal avoidance or monitoring prior to the start of construction activities.

4.3.6 Impact-BIO-7: Potential Disruption of Fishes, Green Sea Turtle, and Marine Mammals and Altered Prey Availability to Sensitive Fish-Feeding Avian Species (GB Capital Component)

Potentially Significant Impact: The EIR identifies a potentially significant impact on biological resources (Impact-BIO-7) associated with impact-hammer and vibratory-hammer pile-driving activities that could potentially generate enough underwater noise to injure (Level A Harassment) or alter behavior (Level B Harassment) of green sea turtles, fishes, and marine mammals. Noise-generating impacts resulting from project construction activities that cause fish to flee the project area could mean increased foraging distance for California least terns, resulting in lowered nest success for California least terns using the D Street nesting colony. The increased turbidity due to suspension of marine sediments during pile driving (impact, vibratory, jetting) or other sediment-disturbing activities can reduce the ability of fish-feeding marine birds to capture prey. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.3, *Biological Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or

substantially lessen the significant environmental effect on biological resources identified as Impact-BIO-7 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on biological resources (Impact-BIO-7) is analyzed in Volume 2 (Final EIR), Section 4.3, *Biological Resources*. Potential Impact-BIO-7 would result from pile driving activities that could generate underwater noise that has the potential to injure (Level A Harassment) or alter behavior (Level B Harassment) of green sea turtles, fishes, and marine mammals.

The potentially significant impact on biological resources (Impact-BIO-7) would be reduced to below a level of significance by mitigation measure MM-BIO-7: Avoidance of Impacts on Special-Status Wildlife During In-Water Construction Activities. This mitigation measure is set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR and provides as follows:

MM-BIO-7: Avoidance of Impacts on Special-Status Wildlife During In-Water Construction Activities (GB Capital Component). During in-water pile installation, the contractor shall utilize pile jetting or vibratory methods (vibratory methods subject to additional measures below) to reduce the daily number of pile strikes to the extent practicable and must use fewer than 750 pile strikes per day to set pilings.

Prior to construction activities involving impact-hammer and vibratory in-water pile driving, the project proponent shall prepare and implement a marine mammal, fish injury, and green sea turtle monitoring program such as a Marine Fish Species Impact Avoidance and Minimization Plan. The District shall review the monitoring program, which shall include the following requirements:

- For a period of 15 minutes prior to the start of in-water construction, a qualified biologist, retained by the project proponent (i.e., GB Capital) and approved by the District's Director of Development Services or their designee, shall monitor around the active pile driving areas to ensure that special-status species are not present. Monitors shall also monitor for injured fish and have the authority to stop work if there is an observation of concern.
- The construction contractor shall not start work if any observations of special-status species are made prior to starting pile driving.
- In-water pile driving shall begin with soft starts, gradually increasing the force of the pile driving. This allows marine mammals, green sea turtles, and fishes to flee areas adjacent to pile-driving activities.
- All monitors must meet the minimum requirements as defined by the National Oceanic Atmospheric Administration (NOAA)'s *Guidance for Developing a Marine Mammal Monitoring Plan* (NOAA 2019).
- Recommendations in the marine mammal and green sea turtle monitoring program shall be consistent with the District's Regional General Permit (RGP) 72.
- If the biological monitor determines that underwater noise is causing an

- observable impact to any sensitive species, the biological monitor stop in-water construction or may require a bubble curtain be placed around pilings during impact driving to reduce the intensity of underwater sound pressure levels.
- A silt curtain shall be placed around the pile driving activity to restrict the distribution of turbidity associated with the re-suspension of marine sediments. The silt curtain shall be placed such that it does not drag on the bottom or contact eelgrass resources. In addition, the project proponent shall have a qualified contractor prepare and implement a water quality monitoring plan for the District's review and approval to ensure that turbidity outside of the silt curtain does not increase more than 20% above ambient conditions during pile driving.
 - The monitoring plan shall be implemented during all pile driving activities and be a part of any construction contracts of GB Capital's in-water construction.

Implementation of MM-BIO-7 would reduce impacts on marine mammals, fishes, and green sea turtles (Impact-BIO-7) to less-than-significant levels by monitoring for marine mammals and green sea turtles prior to and during impact-hammer and vibratory pile driving and halting in-water pile-driving activities until the species has left the construction area. MM-BIO-7 would also reduce impacts on nesting California least tern to less than significant by ensuring that their prey (fish) is not disturbed during the nesting season by pile driving. Finally, MM-BIO-7 would reduce turbidity impacts on the foraging success of California brown pelican and other fish foraging marine birds to less than significant by maintaining water clarity and thereby allowing for foraging success similar to areas beyond the project area.

4.3.7 Impact-BIO-9: Reflective Materials and Increased Bird Strikes (GB Capital Component and City Program – Development Component)

Potentially Significant Impact: The EIR identifies a potentially significant impact on biological resources (Impact-BIO-9) from the use of reflective building and glass finishes associated with hotel development, which may confuse birds in flight, leading to an increase in strikes. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.3, *Biological Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on biological resources identified as Impact-BIO-9 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on biological resources (Impact-BIO-9) is analyzed in Volume 2 (Final EIR), Section 4.3, *Biological Resources*. Potential Impact-BIO-9 would result from the use of reflective building and glass finishes associated with hotel development, which may confuse birds in flight, leading to an increase in strikes. The proposed

project is also located along the coastline and includes a portion of a bird migration corridor and likely includes important migratory stopover habitat.

The potentially significant impact on biological resources (Impact-BIO-9) would be reduced to below a level of significance by mitigation measure MM-BIO-9: Implement Bird Strike Reduction Measures on New Structures. This mitigation measure is set forth in full in the MMRP and Table 2-3 of the *Executive Summary* of the Final EIR and provides as follows:

MM-BIO-9: Implement Bird Strike Reduction Measures on New Structures (GB Capital Component and City Program – Development Component). Prior to issuance of any building construction/permits for any portion of the GB Capital Component or City Program – Development Component where the building would be taller than three stories, an ornithologist (retained by the respective project proponent and pre-approved by the District for the GB Capital Component or the City for the City Program – Development Component) familiar with local species will review building plans to verify that the proposed building has incorporated specific design strategies that qualify for Leadership in Energy and Environmental Design (LEED) credits, as described in the American Bird Conservancy's *Bird-Friendly Building Design* (Sheppard and Phillips 2015) or an equivalent guide to avoid or reduce the potential for bird strikes. Final building design strategies shall be in accordance with the *Bird-Friendly Building Design*, by incorporating strategies to minimize the threat to avian species, including but not limited to the following:

- Building Façade and Site Structures.
 - Develop a building façade and site design that are visible as physical barriers to birds.
- Elements such as Netting, Screens, Grilles, Shutters, and Exterior Shades to Preclude Collisions.
 - Incorporate materials that have a low threat potential based on the Bird Collision Threat Rating and the Bird Collision Threat Rating Calculation Spreadsheet to achieve a maximum total building Bird Collision Threat Rating of 15 or less.
 - High Threat Potential: Glass: Highly Reflective or Completely Transparent Surface.
 - Least Threat Potential: Opaque Surface
- Exterior Lighting
 - Fixtures not necessary for safety, entrances, and circulation shall be automatically shut off from midnight until 6:00 a.m.
 - Exterior luminaires must meet these requirements for all exterior luminaires located inside project boundary based on the following:
 - Photometric characteristics of each luminaire when mounted in the same orientation and tilt as specified in the project design; and
 - The lighting zone of the project property (at the time

construction begins). Classify the project under one lighting zone using the lighting zones definitions provided in the *Illuminating Engineering Society and International Dark Sky Association (IES/IDA) Model Lighting Ordinance (MLO) User Guide* (2011).

- Performance Monitoring Plan
 - The project proponent (e.g., GB Capital) shall develop a 3-year postconstruction monitoring plan to routinely monitor the effectiveness of the building and site design in preventing bird collisions for buildings over three stories high that shall include methods to identify and document locations where repeated bird strikes occur, the number of collisions, the date, the approximate time, and features that may be contributing to collisions, and shall list potential design solutions and provide a process for adaptive management.
 - The project proponent (e.g., GB Capital) shall provide an adaptive monitoring report demonstrating which design strategies have been incorporated and the results of adaptive monitoring for District review.

Implementation of MM-BIO-9 would reduce impacts on birds in flight (Impact-BIO-9) to less-than-significant levels by requiring the incorporation of design strategies that enable birds to recognize structures from the open sky.

4.3.8 Impact-BIO-10: Disruption of Wildlife Behavior Due to Additional Lighting (GB Capital Component)

Potentially Significant Impact: The EIR identifies a potentially significant impact on biological resources (Impact-BIO-10) from new parking and landscape lighting that would be added to the GB Capital Component area as a result of the proposed development, including an RV park, retail, expanded marina, modular cabins, and hotel buildings, that would disrupt wildlife behaviors. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.3, *Biological Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on biological resources identified as Impact-BIO-10 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on biological resources (Impact-BIO-10) is analyzed in Volume 2 (Final EIR), Section 4.3, *Biological Resources*. Potential Impact-BIO-10 would result from the new lighting added to the GB Capital Component area as a result of the proposed development, including an RV park, retail, expanded marina, modular cabins, and hotel buildings, that would disrupt wildlife behaviors.

The potentially significant impact on biological resources (Impact-BIO-10) would

be reduced to below a level of significance by mitigation measure MM-AES-8: Limit Lighting. This mitigation measure is set forth in full in the MMRP and Table 2-3 of the *Executive Summary* in the Final EIR and provides as follows:

MM-AES-8: Limit Lighting (GB Capital Component). Proposed outdoor lighting in the parking lots, in the marina, and outside of buildings shall not exceed a correlated color temperature of 2,700 Kelvins in order to emit less high frequency blue light. The project proponent shall provide details (i.e., Kelvins) of the proposed lighting to the District's Development Services Department for review and approval prior to commencement of construction of the GB Capital Component.

Implementation of MM-AES-8 would reduce the potential to disrupt wildlife behaviors from additional lighting sources (Impact-BIO-10) to less-than-significant levels by requiring lighting features that would emit less high-frequency blue light from the GB Capital Component.

4.3.9 Impact-BIO-11: Potential Loss of Diegan Coastal Sage Scrub During Project Construction (GB Capital Component and Bayshore Bikeway Component Route 3)

Potentially Significant Impact: The EIR identifies a potentially significant impact on biological resources (Impact-BIO-11) related to the potential removal of Diegan coastal sage shrub (including restored and baccharis-dominated forms) from construction activities, such as grading. Detailed information and analysis regarding this potentially significant impact is provided in Volume 2 (Final EIR), Section 4.3, *Biological Resources*.

Finding: Pursuant to State CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the approved project that avoid or substantially lessen the significant environmental effect on biological resources identified as Impact-BIO-11 in the EIR.

Facts in Support of Finding: The potentially significant impact of the proposed project on biological resources (Impact-BIO-11) is analyzed in Volume 2 (Final EIR), Section 4.3, *Biological Resources*. Potential Impact-BIO-9 would result from construction activities for the Bayshore Bikeway Component and GB Capital Component, which has the potential to remove Diegan coastal sage scrub. The potentially significant impact on biological resources (Impact-BIO-11) would be reduced to below a level of significance by mitigation measure MM-BIO-10: Provide Compensatory Mitigation for Impacts on Coastal Sage Scrub. This mitigation measure is set forth in full in the MMRP and Table 2-3 in the *Executive Summary* of the Final EIR and provides as follows:

MM-BIO-10: Provide Compensatory Mitigation for Impacts on Coastal Sage Scrub (GB Capital Component and Bayshore Bikeway Component Route 3). Compensation for permanent impacts on Diegan coastal sage scrub habitats shall occur at a minimum 1:1 ratio, with compensation occurring as creation, enhancement, or restoration. The compensation can occur through a combination