

Staff Report 29

APPLICANT:

City of Daly City, Department of Water and Wastewater Resources

PROPOSED ACTION:

Termination of a General Lease – Right-of-Way Use and Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign tide and submerged land in the Pacific Ocean, adjacent to Fort Funston, City and County of San Francisco.

AUTHORIZED USE:

Use, repair, and maintenance of an existing 33-inch diameter sanitary sewer outfall pipeline with diffusers and all appurtenances thereto, the partial demolition and removal of a concrete outlet structure, the removal of abandoned concrete pipeline support structures; the installation, use, maintenance, and removal of a temporary sheet pile cofferdam; and temporary access during construction.

TERM:

35 years, beginning October 25, 2022; ending October 24, 2057.

CONSIDERATION:

The public health and safety, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

- The lease includes a provision to provide pipeline inspections.
- The lease includes a provision to remove any abandoned concrete piers from the beach.
- The lease includes a provision to access the beach for maintenance, repair, and construction.

- The lease includes a provision to reimburse staff costs for plan and inspection review.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6210.3, 6216, and 6301; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On August 8, 1954, the Commission authorized a Right-of-Way Lease to the North San Mateo County Sanitation District for the construction, operation, and maintenance of a 33-inch-diameter sewer outfall pipeline that extends approximately 2,400 feet into the Pacific Ocean ([Item 22, August 25, 1954](#)). That lease was for a term of continuous use +1 year. On April 26, 1962, the Commission authorized an amendment to the legal description for purposes of extending the sewer outfall ([Item C05, April 26, 1962](#)).

The North San Mateo County Sanitation District is a subsidiary agency of the Applicant and owns the existing sewer outfall pipeline that discharges treated effluent into the Pacific Ocean. The pipeline crosses the beach and is exposed during low tides creating an unsafe, impassible barrier. The pipeline has also developed some structural deficiencies and certain sections require replacement.

In addition to the existing sewer outfall pipeline, an existing drainage tunnel, built in the 1890s, used to divert stormwater from Lake Merced to the Pacific Ocean requires upgrades to increase its hydraulic capacity and extend its operating life. The drainage tunnel passes under Fort Funston, which is part of the Golden Gate National Recreation Area, operated by the National Park Service. Stormwater discharges at this location via a concrete outlet structure. The outlet structure is located on the beach landward of the Commission's jurisdiction but has been exposed by bluff erosion.

To address these issues, the Applicant proposes the Vista Grande Drainage Basin Improvement Project (Project) to improve stormwater drainage in the northwestern portion of Daly City, an unincorporated portion of San Mateo County, and a small area within the City and County of San Francisco.

The Project proposes the following elements:

- Remove abandoned concrete support piers from the beach.
- Remove and replace one concrete pipeline support pier.
- Remove and replace segments of the existing outfall pipe.
- Install a temporary cofferdam for the demolition, removal, and construction of the new outfall structure which will take approximately seven months to complete.
- Construct a new concrete outlet structure with concrete wing walls nearer to the existing bluff face. The new outlet structure, to be constructed landward of the Commission's jurisdiction, will have a stepped apron allowing the public to safely pass over it to access the beach and shoreline.
- Work within the Commission's jurisdiction will occur during low-tide and take approximately one week in either January or July.
- Beach access will be prohibited during construction for public safety purposes.

Staff recommends terminating existing Lease 1364 and reissuing the lease to better reflect the agency that is responsible for the Project and ongoing maintenance for the authorized improvements. Terminating the existing lease will also allow for an update to the lease terms.

To maintain the outfall pipeline integrity in safe operating condition, the Lease will require the Applicant to comply with all existing and subsequently enacted laws or regulations promulgated by federal, State, and local agencies having lawful authority and jurisdiction over the outfall pipeline.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 35-year term, does not grant the lessee exclusive rights to the lease premises, and will only temporarily interfere with public trust uses at this location, during construction. Construction of the new outlet structure will provide safe access over the structure for recreational use of the beach and shoreline and work to protect upland communities from stormwater flooding. Repair and replacement of the outfall pipeline, with regular inspections, will maintain the pipelines integrity. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located on the Fort Funston Beach, in a tidally influenced site vulnerable to flooding at current sea levels that will be at high risk of flood exposure based on the projected scenarios of sea level rise in this area.

The California Ocean Protection Council updated the *State of California Sea-Level Rise Guidance* in 2018 to provide a synthesis of the best available science on sea level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea Level Rise for San Francisco

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: Projections are with respect to a 1991 to 2009 baseline.

Sea level rise will raise the total water levels of the Fort Funston Beach and likely cause frequent inundation of the lease area since these structures are on and along the bluff of the Fort Funston Beach. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of storms and rain events. Storm debris may constitute additional hazards to the lease area and structures. Higher rates of erosion and sedimentation from flooding, storm flow, and runoff will likely increase scour and further decrease bluff stability along the Fort Funston Beach.

As the total water levels at the Fort Funston Beach increase with sea level rise, the new structures to be built will remain at higher risk of damage, degradation, and loss from the combined impacts of sea level rise, storms, and rain events. The lessee is responsible for protecting the lands, resources, and values of the Public Trust within the lease area.

Regular maintenance and inspections of the pipeline will reduce the likelihood of severe structural degradation or dislodgement after major storm events, King tides, and seismic events. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are in an area that may be subject to the effects of climate change, including sea level rise.

CONCLUSION:

For the reasons stated above, staff believes the approval of the proposed lease will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed permit; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the improvements and restore the premises to their original condition. The lessee has no right to a new Lease or to renewal of any previous Lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. An Environmental Impact Report/Environmental Impact Statement (EIR/EIS), State Clearinghouse No. 2013032001, was prepared for this project by City of Daly City (City) and certified on December 22, 2020. As part of its project approval, the City made a Statement of Facts and Findings and Statement of Overriding Considerations and adopted a Mitigation Monitoring and Reporting Program.

Staff has reviewed these documents and prepared an independent Mitigation Monitoring Program (MMP) (attached, Exhibit C) that incorporates the City's document and recommends its adoption by the Commission.

Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) are contained in the attached Exhibit D.

A Statement of Overriding Considerations made pursuant to the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15093) is contained in the attached Exhibit D.

5. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by California Code of Regulations, title 2, section 2954 is not applicable.

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program
- D. Findings and Overriding Considerations

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR/EIS, State Clearinghouse No. 2013032001, was prepared for this project by the City and certified on December 22, 2020, and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in the attached Exhibit C.

Adopt the Findings, made in conformance with California Code of Regulations, title 14, sections 15091 and 15096, subdivision (h), as contained in the attached Exhibit D.

Adopt the Statement of Overriding Considerations made in conformance with California Code of Regulations, title 14, section 15093, as contained in the attached Exhibit D.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

Find that the approval of the proposed lease will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

1. Terminate Lease 1364, a General Lease – Right-of-Way Use, issued to North San Mateo County Sanitation District, effective October 24, 2022.
2. Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning October 25, 2022, for a term of 35 years, for the Vista Grande Drainage Basin Improvement Project as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public health and safety, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State’s best interests; contractor to maintain General Liability Insurance coverage in an amount no less than \$10,000,000 per occurrence and a bond or other surety in an amount no less than \$550,000 during construction activities.

EXHIBIT A

LEASE 1364

LAND DESCRIPTION

Two parcels of tide and submerged lands lying in the bed of the Pacific Ocean, adjacent to fractional Section 34, Township 2 South, Range 6 West, MDM., as shown on Official Government Township Plat approved February 14, 1887, City and County of San Francisco, State of California, more particularly described as follows:

PARCEL 1 – Existing 33” outfall & disturbance area

BEGINNING at a point lying distant S 84°09'13" W 813.01 feet from Point Number 105 as shown on Record of Survey #8080 recorded in Book EE of Survey Maps, Pages 147-157, on April 14, 2014, Official Records of said City and County; thence from said point of beginning the following ten (10) courses:

- 1) N 40°46'42" W 123.24 feet;
- 2) S 42°52'27" W 44.80 feet;
- 3) N 44°04'03" W 126.01 feet;
- 4) S 88°33'22" W 40.08 feet;
- 5) S 1°25'58" E 11.11 feet to a point hereinafter referred to as Point A;
- 6) S 1°25'58" E 30.88 feet;
- 7) N 88°34'16" E 21.66 feet;
- 8) S 44°04'21" E 122.76 feet;
- 9) S 1°08'41" E 23.02 feet;
- 10) N 88°50'16" E 130.16 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

PARCEL 2 – Existing 33” outfall

A strip of land 10 feet wide, lying 5 feet on either side of the following described centerline:

BEGINNING at Point A as described in above Parcel 1, said point lying on the centerline of an existing 30” wide outfall pipe; thence along the centerline of said pipe West 2,375 feet, more or less, to the end of said pipe and the terminus of said strip.

The sidelines of said strip shall be prolonged or shortened so as to begin at the westerly edge of the above described Parcel 1, and terminate at a point perpendicular to the terminus of said centerline.

The BASIS OF BEARINGS of this description is California Coordinate System of 1983, Zone 3, (epoch 2010.00).

END OF DESCRIPTION

Prepared 4/23/2021 by the California State Lands Commission Boundary Unit.

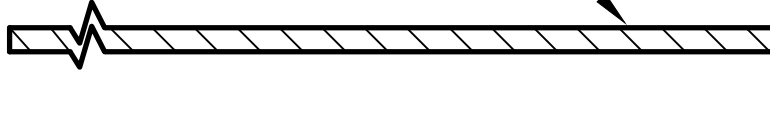


NO SCALE

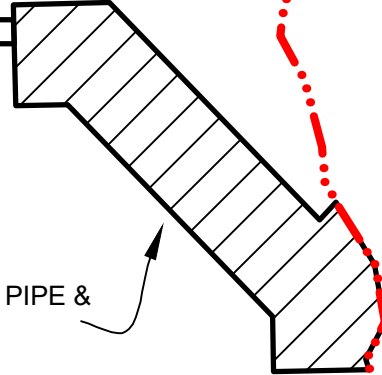
SITE



LEASE PARCEL 2
(EXISTING 33" OUTFALL PIPE
2375 LF)



LEASE PARCEL 1
(EXISTING 33" OUTFALL PIPE &
DISTURBANCE AREA)



APN 7282-006

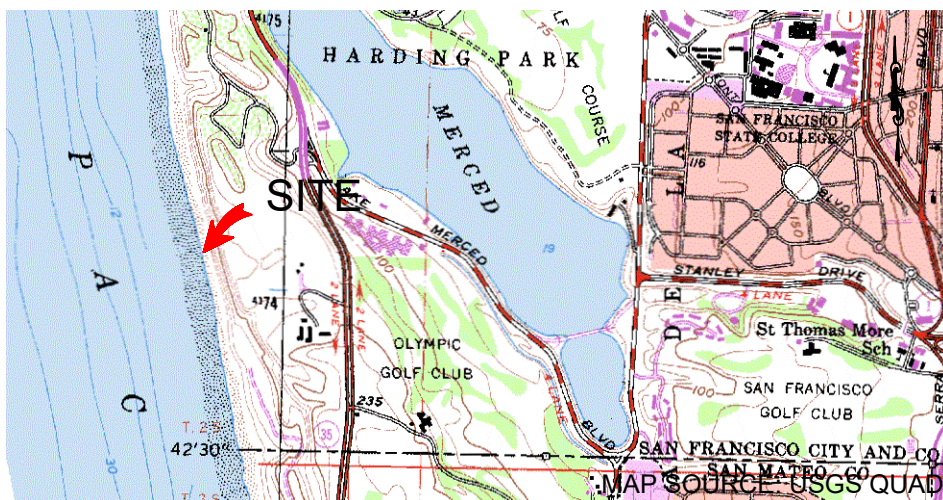
PACIFIC OCEAN

APPROXIMATE SHORELINE

PACIFIC OCEAN, NEAR FORT FUNSTON

NO SCALE

LOCATION



THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

EXHIBIT B

LEASE 1364
CITY OF DALY CITY, DEPARTMENT
OF WATER AND WASTEWATER
RESOURCES
APN 7282-006
GENERAL LEASE -
PUBLIC AGENCY USE
SAN FRANCISCO COUNTY



DJF 9/14/2022

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
VISTA GRANDE DRAINAGE BASIN IMPROVEMENT PROJECT
(A 2716/PRC 1364.9, State Clearinghouse Number 2013032001)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Vista Grande Drainage Basin Improvement Project (Project). The CEQA lead agency for the Project is city of Daly City.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on State lands. The purpose of a MMP is to impose feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines¹ section 15097, subdivision (a), states in part:

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency certified an EIR, State Clearinghouse Number 2013032001, adopted a Mitigation Monitoring and Reporting Program (MMRP) for the whole of the Project (see Exhibit C, Attachment C-1), and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. The full text of each mitigation measure, as set forth in the MMRP prepared by the CEQA lead agency and provided in Attachment C-1, is incorporated by reference in this Exhibit C.

¹ The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM)²
AES-3. Project Construction Could Result In a New Source of Substantial Light or Glare That Would Adversely Affect Day or Nighttime Views in the Area.	MM 3.9-4. Night Lighting Minimization.
Impact BIO-2. Construction of the Project Could Have A Substantial Adverse Effect Either Directly or Through Habitat Modifications, on Reptile Species Identified As Special-Status in Local or Regional Plans, Policies, or Regulations, or by the CDFW (California Department of Fish and Wildlife) or USFWS (U.S. Fish and Wildlife).	MM 3.4-2a. Worker Environmental Awareness Program Training
Impact BIO-3. Construction of the Project Could Have a Substantial Adverse Effect Either Directly or Through Habitat Modifications, on Migratory Birds and/or on Bird Species Identified as Special-Status in Local or Regional Plans, Policies, or Regulations, or by the CDFW or USFWS.	MM 3.4-3. Nesting Bird Protection Measures MM 3.11-1.
Impact BIO-4. Project Construction Could Have a Substantial Adverse Effect Either Directly or Through Habitat Modifications, on Bats Identified as Special-Status in Local or Regional Plans, Policies, or Regulations, or by the CDFW or USFWS.	MM 3.4-4. Avoidance and Minimization Measures for Special-Status Bats.
Impact BIO-7. Construction of the Project Would Have a Substantial Adverse Effect on Sensitive Communities Identified in Local or Regional Plans, Policies, Regulations, or by CDFW or USFWS Through the Introduction or Spread of Invasive Plants.	MM 3.4-7a. Control Measures for Spread of Invasive Plants.
Impact BIO-8. Project Construction Could Have a Substantial Adverse Effect on Wetlands and Other Jurisdictional Waters.	MM 3.4-8a. Wetland Avoidance and Protection.

² See Attachment C-1 for the full text of each MM taken from the MMP prepared by the CEQA lead agency.

Potential Impact	Mitigation Measure (MM) ²
Impact BIO-10. Construction of the Project Could Interfere Substantially With the Movement of Native Resident or Migratory Species or With Established Native Resident or Migratory Corridors, or Impede the Use of Nursery Sites.	MM 3.4-9. Night Lighting Minimization.
Impact CUL-2. The Project Would Cause a Substantial Adverse Change in the Significance of an Archaeological Resource, Including Shipwrecks.	MM 3.5-3. Inadvertent Discovery of Archaeological Resources or Shipwrecks.
Impact CUL-3. Project Construction Would Disturb Human Remains.	MM 3.5-4. Inadvertent Discovery of Human Remains.
Impact GEO-1. Construction, Operation, and Maintenance of the Project Could Expose People or Structures to Potential Substantial Adverse Effects Involving Strong Seismic Ground Shaking and/or Seismic-Related Ground Failure.	MM 3.6-1a. MM 3.6-1b.
Impact GHG-1. Project Construction and Operation Would Generate GHG Emissions.	MM 3.7-1. Greenhouse Gas Emission Reduction
Impact HAZ-2. Project Construction Could Result in a Significant Hazard to the Public or the Environment Through Reasonably Foreseeable Upset and Accident Conditions Involving the Release of Hazardous Materials Into the Environment.	MM 3.8-1. Health and Safety Plan.
Impact HYD-1. Project Construction Could Violate Water Quality Standards and/or Waste Discharge Requirements, Provide Substantial Additional Sources of Polluted Runoff, or Otherwise Substantially Degrade Water Quality.	MM 3.9-1. Implement Cofferdam Dewatering BMPs for In-Water Work.
Impact HYD-9. Temporary and Short-term Changes in Recreational Opportunities during Project Construction Activities.	MM 3.9-2. Avoidance and Minimization of Conflicts with California Coastal Act and NPS (Nonpoint Source Pollution) Management Policies.
Impact LU-1. The Project Could Conflict With Any Applicable Land Use Plan, Policy, or Regulation of an Agency With Jurisdiction Over the Project (Including, But Not Limited to the General Plan,	MM 3.9-2. Avoidance and Minimization of Conflicts with California Coastal Act and NPS Management Policies.

Potential Impact	Mitigation Measure (MM) ²
Specific Plan, Local Coastal Program, or Zoning Ordinance) Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect.	
Impact NOI-1. Project Construction Could Temporarily Expose Persons to or Generate Noise Levels in Excess of Local Noise Ordinances or Create a Substantial Temporary Increase in Ambient Noise Levels.	MM 3.11-1. MM 3.11-2.

ATTACHMENT C-1

**MITIGATION MONITORING AND REPORTING PROGRAM ADOPTED BY THE
CITY OF DALY CITY**

EXHIBIT D – Vista Grande Drainage Basin Improvement Project

CALIFORNIA STATE LANDS COMMISSION STATEMENT OF FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

1.0 INTRODUCTION

The California State Lands Commission (Commission or CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Public Agency Use lease to the city of Daly City (City) for use of sovereign land associated with the proposed Vista Grande Drainage Basin Improvement Project (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines¹, § 15381.) The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306, 6009, subd. (c).) All tidelands and submerged lands granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

The Commission is a responsible agency under CEQA for the Project because the Commission must approve a General Lease – Public Agency Use lease for the Project to go forward, and because the City, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The City analyzed the environmental impacts associated with the Project in a Final Environmental Impact Statement/Report (EIR) (State Clearinghouse Number 2013032001) and on December 22, 2020, certified the EIR and adopted a Mitigation Monitoring and Reporting Program, Findings, and a Statement of Overriding Considerations.

The Project involves upgrading an existing storm-related flooding infrastructure in the Vista Grande Drainage Basin to better manage the Lake Merced water levels. The Project components under the Commission’s jurisdiction includes the demolition of a portion of the concrete outfall structure, installation of steel sheet pilings, removal and replacement of portions of the 33-inch diameter outfall pipeline, and removal of abandoned pipeline support structures crossing the Fort Funston Beach in San Francisco County.

The City determined that the Project could have significant environmental effects on the following environmental resources:

¹ CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, title 14, section 15000 et seq.

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions and Climate Change
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise and Vibration
- Geologic and Paleontological Resources
- Transportation and Traffic

Of the 12 resource areas noted above, Project components within the Commission's jurisdiction (i.e., replacing the existing ocean outlet structure and a portion of the 33-inch submarine outfall pipeline on Fort Funston Beach) could have significant environmental effects on nine of these resource areas, as follows:

- Aesthetics
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions and Climate Change
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise and Vibration

In certifying the EIR and approving the Project, the City imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures such that the impacts would be less than significant for most resource areas. However, even with the integration of all feasible mitigation, the City concluded in the EIR that some of the identified impacts would remain significant. As a result, the City adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The City determined that, after mitigation, the Project may still have significant impacts on Cultural Resources, Hydrology and Water Quality, and Land Use and Planning. Because some of these significant impacts may occur on lands under the jurisdiction of the Commission, the Commission also adopts a Statement of Overriding Considerations set forth in this Exhibit as part of its approval.

As a responsible agency, the Commission complies with CEQA by considering the EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the Commission may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the

Commission will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or Project revisions are implemented, the Commission adopts the Mitigation Monitoring Program as set forth in Exhibit C as part of its Project approval.

2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS AND CUSTODIAN OF THE RECORD

These Findings are supported by substantial evidence contained in the EIR and other relevant information provided to the Commission or existing in its files, all of which is contained in the administrative record. The administrative record is located at the California State Lands Commission, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825. The custodian for the administrative record is the California State Lands Commission Division of Environmental Planning and Management.

3.0 FINDINGS

The Commission's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the EIR certified by the City for the Project identifies potentially significant impacts that fall within the scope of the Commission's approval, the Commission makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1202, 1207.)

While the Commission must consider the environmental impacts of the Project as set forth in the EIR, the Commission's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the Commission's exercise of discretion involves only issuing a General Lease – Public Agency Use for this Project, the Commission is responsible for considering only the environmental impacts related to lands or resources subject to the Commission's jurisdiction. With respect to all other impacts associated with implementation of the Project, the Commission is bound by the legal presumption that the EIR fully complies with CEQA.

The Commission has reviewed and considered the information contained in the Project EIR. All significant adverse impacts of the Project identified in the documents relating to the Commission's approval of a General Lease – Public Agency Use which would allow upgrading the ocean outfall, are included herein and organized according to the resource affected.

These Findings, which reflect the independent judgment of the Commission, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the EIR.²

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the Commission has determined that, even after implementation of all feasible mitigation measures and consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the Commission finds in these instances that overriding economic, legal, social, and other benefits of the approved Project outweigh the resulting significant and unavoidable impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the EIR.

² See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

A. SUMMARY OF FINDINGS

The EIR identified the following impacts as Less Than Significant:

- Recreation
- Population and Housing
- Utilities and Service Systems

For the remaining potentially significant effects, the Findings are organized by significant impacts within the EIR issue areas as presented below.

B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts identified in Table 1 were determined in the EIR to be potentially significant absent mitigation. After application of mitigation, however, several impacts were determined to be less than significant. For the full text of each MM, please refer to Exhibit C, Attachment C-1.

However, even with the integration of all feasible mitigation, the City concluded in the EIR that the other identified potentially significant impacts will remain significant. Table 1 identifies those impacts that the City determined would be, after mitigation, significant and unavoidable.

Table 1 – Significant Impacts by Issue Area

Environmental Issue Area	Impact Number (Less Than Significant with Mitigation)	Impact Numbers (Significant and Unavoidable)
Aesthetics	AES-3	
Biological Resources	BIO-2, BIO-3, BIO-4, BIO-7, BIO-8, BIO-10	
Cultural Resources	CUL-2, CUL-3	
Geology and Soils	GEO-1	
Greenhouse Gas Emissions and Climate Change	GHG-1	
Hazards and Hazardous Materials	HAZ-2	
Hydrology and Water Quality	HYD-1	HYD-9
Land Use and Planning		LU-1
Noise and Vibration	NOI-1	

As a result, the Commission adopts the Statement of Overriding Considerations set forth as part of this Exhibit to support its approval of the Project despite the significant and unavoidable impacts.

C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

The impacts identified below were determined in the EIR to be potentially significant absent mitigation; after application of mitigation, however, the impacts were determined to be less than significant.

1. AESTHETICS

CEQA FINDING NUMBER AES-3

Impact: **Impact AES-3. Project Construction Could Result In a New Source of Substantial Light or Glare That Would Adversely Affect Day or Nighttime Views in the Area.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in creating a new light or glare source that could adversely affect day or nighttime views in the area since replacing the pipe section and piers on the beach would necessitate 24-hour work over a period of several days to one week. Implementing **MM 3.9-4** will reduce the Project's potential short-term and temporary new source of light or glare in the area to a less than significant level.

- **MM 3.9-4:** Night Lighting Minimization.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

2. BIOLOGICAL RESOURCES

CEQA FINDING NUMBER BIO-2

Impact: **Impact BIO-2. Construction of the Project Could Have A Substantial Adverse Effect Either Directly or Through Habitat Modifications, on Reptile Species Identified As Special-Status in Local or Regional Plans, Policies, or Regulations, or by the CDFW (California Department of Fish and Wildlife) or USFWS (U.S. Fish and Wildlife).**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in directly or indirectly impacting special-status reptiles. Implementing **MM 3.4-2a** will reduce the Project's potential impacts on special-status reptiles to a less than significant level.

- **MM 3.4-2a:** Worker Environmental Awareness Program Training

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NUMBER BIO-3

Impact: **Impact BIO-3. Construction of the Project Could Have a Substantial Adverse Effect Either Directly or Through Habitat Modifications, on Migratory Birds and/or on Bird Species Identified as Special-Status in Local or Regional Plans, Policies, or Regulations, or by the CDFW or USFWS.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in directly or indirectly impacting migratory or special-status birds. Implementing **MMs 3.4-3** and **3.11-1** will reduce the Project's potential impacts on migratory or special-status birds to a less than significant level.

- **MM 3.4-3:** Nesting Bird Protection Measures
- **MM 3.11-1**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NUMBER BIO-4

Impact: **Impact BIO-4. Project Construction Could Have a Substantial Adverse Effect Either Directly or Through Habitat Modifications, on Bats Identified as Special-Status in Local or Regional Plans, Policies, or Regulations, or by the CDFW or USFWS.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in directly or indirectly impacting special-status bats. Implementing **MM 3.4-4** will reduce the Project's potential impacts on special-status bats to a less than significant level.

- **MM 3.4-4:** Avoidance and Minimization Measures for Special-Status Bats.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NUMBER BIO-7

Impact: **Impact BIO-7. Construction of the Project Would Have a Substantial Adverse Effect on Sensitive Communities Identified in Local or Regional Plans, Policies, Regulations, or by CDFW or USFWS Through the Introduction or Spread of Invasive Plants.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in introducing or spreading invasive plants. Implementing **MM 3.4-7a** will reduce the Project's potential impacts on spreading invasive plants to a less than significant level.

- **MM 3.4-7a:** Control Measures for Spread of Invasive Plants.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NUMBER BIO-8

Impact: **Impact BIO-8. Project Construction Could Have a Substantial Adverse Effect on Wetlands and Other Jurisdictional Waters.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in impacting wetlands and other jurisdictional waters. Implementing **MM 3.4-8a** will reduce the Project's potential impacts on wetlands and jurisdictional waters to a less than significant level.

- **MM 3.4-8a:** Wetland Avoidance and Protection.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NUMBER BIO-10

Impact: **Impact BIO-10. Construction of the Project Could Interfere Substantially With the Movement of Native Resident or Migratory Species or With Established Native Resident or Migratory Corridors, or Impede the Use of Nursery Sites.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in impacting species living locally or migrating through the Project area. Implementing **MM 3.4-9** will reduce the Project's potential impacts on resident or migratory species to a less than significant level.

- **MM 3.4-9:** Night Lighting Minimization.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

3. CULTURAL RESOURCES

CEQA FINDING NUMBER CUL-2

Impact: **Impact CUL-2. The Project Would Cause a Substantial Adverse Change in the Significance of an Archaeological Resource, Including Shipwrecks.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in impacting shipwrecks and other unknown archaeological resources. Implementing **MM 3.5-3** will reduce the Project's potential impacts on shipwrecks and other unknown archaeological resources to a less than significant level.

- **MM 3.5-3:** Inadvertent Discovery of Archaeological Resources or Shipwrecks.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NUMBER CUL-3

Impact: **Impact CUL-3. Project Construction Would Disturb Human Remains.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in disturbing human remains buried on the Project site. Implementing **MM 3.5-4** will reduce the Project's potential impacts on any potential human remains to a less than significant level.

- **MM 3.5-4:** Inadvertent Discovery of Human Remains.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

4. GEOLOGY AND SOILS

CEQA FINDING NUMBER GEO-1

Impact: **Impact GEO-1. Construction, Operation, and Maintenance of the Project Could Expose People or Structures to Potential Substantial Adverse Effects Involving Strong Seismic Ground Shaking and/or Seismic-Related Ground Failure.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in exposing people or structures to seismic-related impacts. Implementing **MMs 3.6-1a** and **3.6-1b** will reduce the Project's potential impacts of seismic events on people and structures to a less than significant level.

- **MM 3.6-1a**
- **MM 3.6-1b**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

5. GREENHOUSE GAS (GHG) EMISSIONS AND CLIMATE CHANGE

CEQA FINDING NUMBER GHG-1

Impact: **Impact GHG-1. Project Construction and Operation Would Generate GHG Emissions.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in generating GHG emissions from constructing and operating the Project. Implementing **MM 3.7-1** will reduce the Project's potential impacts on GHG emissions to a less than significant level.

- **MM 3.7-1:** Greenhouse Gas Emission Reduction

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

6. HAZARDS AND HAZARDOUS MATERIALS

CEQA FINDING NUMBER HAZ-2

Impact: **Impact HAZ-2. Project Construction Could Result in a Significant Hazard to the Public or the Environment Through Reasonably Foreseeable Upset and Accident Conditions Involving the Release of Hazardous Materials Into the Environment.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in hazardous materials released impacting the public or the environment. Implementing **MM 3.8-1** will reduce the Project's potential impacts on public or the environment to a less than significant level.

- **MM 3.8-1:** Health and Safety Plan.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

7. HYDROLOGY AND WATER QUALITY

CEQA FINDING NUMBER HYD-1

Impact: **Impact HYD-1. Project Construction Could Violate Water Quality Standards and/or Waste Discharge Requirements, Provide Substantial Additional Sources of Polluted Runoff, or Otherwise Substantially Degrade Water Quality.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in violating water quality standards and/or waste discharge requirements. Implementing **MM 3.9-1** will reduce the Project's potential impacts on water quality to a less than significant level.

- **MM 3.9-1:** Implement Cofferdam Dewatering BMPs for In-Water Work.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

8. NOISE AND VIBRATION

CEQA FINDING NUMBER NOI-1

Impact: **Impact NOI-1. Project Construction Could Temporarily Expose Persons to or Generate Noise Levels in Excess of Local Noise Ordinances or Create a Substantial Temporary Increase in Ambient Noise Levels.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in impacting people or temporarily creating noise levels. Implementing **MMs 3.11-1** and **3.11-2** will reduce the Project's potential impacts on people to a less than significant level.

- **MM 3.11-1**
- **MM 3.11-2**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

D. SIGNIFICANT AND UNAVOIDABLE IMPACTS

The following impacts were determined in the EIR to be significant and unavoidable. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

9. HYDROLOGY AND WATER QUALITY

CEQA FINDING NUMBER HYD-9

Impact: **Impact HYD-9. Temporary and Short-term Changes in Recreational Opportunities during Project Construction Activities.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in altering the existing natural beach dynamics and the coastal environment resulting in altering erosion rates and patterns. The California Coastal Act directs that new coastal development, such as the Ocean Outlet structure, be designed to ensure that impacts on local shoreline sand supply are eliminated or mitigated (Section 30235) and that the Project not create or contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs (Section 30253(b)). The wing walls are proposed to promote the stability and structural integrity of the Ocean Outlet structure, reduce erosion directly behind the wing walls, and extend the operating life of the Ocean Outlet. However, the wing walls would potentially result in alterations to coastal processes in a manner that could result in a reduced local sediment supply, an altered seasonal beach profile due to increased scour, and/or increased episodic bluff erosion. The wing walls thus constitute a protective device that has the potential to substantially alter natural landforms along bluffs and cliffs in the Project vicinity.

Implementing **MM 3.9-2** will reduce or offset the Project's temporary and short-term impact on hydrology and water quality during Project construction activities, but there

are no other feasible mitigation measures available to further avoid or reduce this impact.

- **MM 3.9-2:** Avoidance and Minimization of Conflicts with California Coastal Act and NPS (Nonpoint Source Pollution) Management Policies.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

10. LAND USE AND PLANNING

CEQA FINDING NUMBER LU-1

Impact: **Impact LU-1. The Project Could Conflict With Any Applicable Land Use Plan, Policy, or Regulation of an Agency With Jurisdiction Over the Project (Including, But Not Limited to the General Plan, Specific Plan, Local Coastal Program, or Zoning Ordinance) Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project that have the potential to result in conflicting with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

Implementing **MM 3.9-2** will reduce or offset the Project's temporary and short-term impact on recreational opportunities during Project construction activities, but there are no other feasible mitigation measures available to further avoid or reduce this impact.

- **MM 3.9-2:** Avoidance and Minimization of Conflicts with California Coastal Act and NPS Management Policies.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

E. FINDINGS ON ALTERNATIVES

As explained in *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000:

When it comes time to decide on project approval, the public agency's decisionmaking body evaluates whether the alternatives [analyzed in the EIR] are actually feasible.... At this final stage of project approval, the agency considers whether [s]pecific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or alternatives identified in the environmental impact report.' Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].

The three alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives include:

- 1) Tunnel Alignment Alternative
- 2) Canal Configuration Alternative
- 3) No Project/No Action Alternative

As presented in the EIR, the alternatives were described and compared with each other and with the proposed Project.

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. The City identified the Proposed Project Alternative as the environmentally superior alternative.

The City independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the City's independent judgment as to alternatives. The City found that the Project provides the best balance between the Project goals and objectives and the Project's benefits. The three CEQA alternatives proposed and evaluated in the EIR were rejected as being infeasible for economic, legal, social, technological, and other considerations provided in the City's Findings Regarding Alternatives (Attachment D-1).

Based upon the objectives identified in the EIR and the detailed mitigation measures imposed upon the Project, the Commission has determined that the Project should be approved, subject to such mitigation measures (Exhibit C, Mitigation Monitoring Program), and that any remaining unmitigated environmental impacts attributable to the Project are outweighed by the following specific economic, fiscal, social, environmental, land use, and other overriding considerations.

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

A. INTRODUCTION

This section addresses the Commission's obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also State CEQA Guidelines, §§ 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires the Commission to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease approval related to the Project against the backdrop of the Project's unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable, and the decision-making agency may approve the underlying project. (State CEQA Guidelines § 15092, subd. (b)(2)(B).) CEQA, in this respect, does not prohibit the Commission from approving the Lease even if the Project activities as authorized under the Lease may cause significant and unavoidable environmental effects.

This Statement of Overriding Considerations presents a list of: (1) the specific significant effects on the environment attributable to the approved Project that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Project, and (3) specific reasons for approving the Project.

Although the City and Commission have imposed MMs to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project fall under three resource areas: Hydrology and Water Quality and Land Use and Planning (see Table 2). These impacts are specifically identified and discussed in more detail in the Commission's CEQA Findings and in City's EIR. While the Commission has required all feasible MMs, these impacts remain significant for purposes of adopting this Statement of Overriding Considerations.

Table 2 – Significant and Unavoidable Impacts Identified for the Approved Project

Impact	Impact Description
Hydrology and Water Quality (HYD)	
Impact HYD-9. The Project Could Conflict with Plans, Policies, or Regulations Related to Alteration of Coastal Landforms or Processes Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect.	The Project’s construction and operation could alter the existing natural beach dynamics and the coastal environment resulting in altered bluff erosion rates and patterns. This impact would be considered significant since the wing walls to be used to stabilize the Ocean Outlet structure could reduce erosion directly behind the wing walls and extend the Ocean Outlet’s operating life. But, the wing wall could also alter coastal processes and reduce local sediment supply or seasonally change beach profile if scour or bluff erosion is increased.
Land Use and Planning (LU)	
Impact LU-1. The Project Could Conflict With Any Applicable Land Use Plan, Policy, or Regulation of an Agency With Jurisdiction Over the Project (Including, But Not Limited to the General Plan, Specific Plan, Local Coastal Program, or Zoning Ordinance) Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect.	The Project’s Ocean Outlet structures may be inconsistent with applicable agencies’ land use plans and policies. This impact would be considered significant since it could change the natural landforms along the bluffs and cliffs.

B. BALANCING OF BENEFITS AND RISKS ASSOCIATED WITH LEASE APPROVAL

State CEQA Guidelines section 15093, subdivision (a) requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

C. COMMISSION ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS

As noted above, under Public Resources Code section 21081, subdivisions (a)(3) and (b) and State CEQA Guidelines section 15093, subdivision (a), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve a project.

For purposes of CEQA, if these benefits outweigh the unavoidable significant environmental effects of a proposed Project, the decision-making agency may approve the underlying Project. CEQA, in this respect, does not prohibit the Commission from approving the Project, even if the activities authorized by that approval may cause significant and unavoidable environmental effects. This balancing is particularly difficult given the significant and unavoidable impacts on the resources discussed in the EIR and these Findings. Nevertheless, the Commission finds, as set forth below, that the benefits anticipated by implementing the Project outweigh and override the expected significant effects.

The Commission has balanced the benefits of the Project against the significant unavoidable impacts that will remain after approval of the lease associated with the Approved Project and with implementation of all feasible mitigation in the EIR that is adopted as enforceable conditions of the Commission's approval of the Project. Based on all available information, the Commission finds that the benefits of the approved Project outweigh the significant and unavoidable adverse environmental effects and considers such effects acceptable. The Commission adopts and makes this Statement of Overriding Considerations with respect to the impacts identified in the EIR and these Findings that cannot be reduced to a less than significant level. Each benefit set forth above or described below constitutes an overriding consideration warranting approval of the Project, independent of the other benefits, despite each significant unavoidable impact.

D. CONCLUSION

The Commission has considered the EIR and all the environmental impacts described therein including those that cannot be mitigated to a less than significant level and those that may affect Public Trust uses of State sovereign land. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096 subdivision (h) and 15093, the Commission has considered the fiscal, economic, legal, social, environmental, and public health and safety benefits of the Project and has balanced them against the Project's significant and unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects. The Commission finds that the remaining significant unavoidable impacts of the Project are acceptable considering these benefits. Such benefits outweigh such significant and unavoidable impacts of the Project and provide the substantive and legal basis for this Statement of Overriding Considerations.

The Commission finds that to the extent that any impacts identified in the EIR remain unmitigated, MMs have been required to the extent feasible, although the impacts could not be reduced to a less than significant level.

Based on the above discussion, the Commission finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.

ATTACHMENT D-1

CITY OF DALY CITY FINDINGS REGARDING ALTERNATIVES AND STATEMENT OF OVERRIDING CONSIDERATIONS