

**Minutes
Council/RDA Meeting
City Council/Redevelopment Agency
City of Huntington Beach**

Monday, February 27, 2006
6:00 P.M. - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

**A videotape of the 6:00 p.m. portion of this meeting
is on file in the Office of the City Clerk.**

Call To Order

Mayor Sullivan called the adjourned regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 6:05 p.m. in the Council Chambers.

City Council/Redevelopment Agency Meeting Roll Call

Present: Bohr, Green, Coerper, Sullivan, Hardy, Hansen, and Cook.
Absent: None.

Pledge of Allegiance/Flag Salute - Led by Councilmember Bohr

Invocation - Led by Rabbi Michael Myerson, Alliance for Christian and Jewish Studies

The City Clerk Announced Late Communications

Pursuant to the Brown (Open Meetings) Act, City Clerk Joan L. Flynn announced all Late Communications received by her office were pertaining to the Public Hearing agenda items, and they would be announced at the time of the Public Hearing.

The Following Communications Were Submitted During the Meeting:

PowerPoint reports submitted by Billy Owens, Poseidon Resources dated February 27, 2006 and titled *Huntington Beach Water Treatment Facility Desalination Project and The Pipeline Process*.

Communications submitted by Jan Vandersloot, a PowerPoint report undated and untitled and a copy of the California State Lands Commission Staff Proposed Resolution Regarding Once Through Cooling in California Power Plants.

Communication submitted by Flossie Horgan dated February 26, 2006, untitled, stating opposition to the proposed desalination plant.

Communication submitted by Teresa Young, undated, which are comments written on a Public Speaker form in opposition to the proposed desalination plant.

Communications submitted by Trish Gray, undated and titled *Desalination Decision* and dated January 3, 2006 titled *Surfrider Foundation, State of the Beach 2005*.

Communication submitted by Joseph Mastropaolo dated February 27, 2006 and titled *The Poseidon Plant Will Add Pollution to Huntington Beach*.

PowerPoint report submitted by Dallas E. Weaver, Ph.D., P.E., undated and titled *Energy and Desalinization*.

Communication submitted by Councilmember Debbie Cook dated February 27, 2006 and titled *The Water-Energy Nexus, California's Energy Security Demands Water Conservation*.

Public Comments

Suzanne Beukema, resident and business owner, spoke in support of the proposed Poseidon Desalination Plant. She stated the Rotary Club is now focusing their efforts on water and water sources since the amounts of freshwater are stable, but populations are growing. Ms. Beukema encouraged Council to be forward thinking and to support the project.

Steve Spanier spoke on behalf of the Orange County Chapter of ReclaimDemocracy.org, stating opposition to what he referred to as a corporation controlling access to a public resource. He urged Council to vote "No" on the proposed desalination project.

Paul Cross voiced his opposition to the proposed desalination plant. He stated concerns about the City's ability to tax the plant, and about the potential negative effects on sea life if the desalination plant is approved. Mr. Cross urged Council to deny the project.

Eric Pendergraft, Manager of the AES power plant and City resident, refuted comments made previously about the emissions and energy use of the plant. He asserted the plant uses natural gas as an energy source and that it emits steam (not smoke) from the stacks. He gave statistics on the AES plant versus Huntington Beach residents pertaining to the use of energy and pollution emissions, stating his opinion that vehicle pollution in Huntington Beach is many times greater than what is emitted by the plant. He also spoke regarding the plant's impact on sea life and the mortality rates resulting from recreational fishing. Mr. Pendergraft urged Council to form their opinion based on facts.

Mayor Pro Tem Coerper asked Mr. Pendergraft if any modernization is planned for the power plant stacks. Mr. Pendergraft stated the stacks will remain the same in the short term, and will potentially be refurbished in 2011. He also stated AES would be interested in considering suggestions for beautification of the stacks.

Gus Mau voiced concerns with Poseidon Resources, stating a lack of past successes pertaining to desalination plants. He urged Council to vote "No" on the project.

Rich Kolander, retired engineer, refuted the positions he said are held by some southeast Huntington Beach residents. He stated his support for the proposed desalination plant.

(City Council) Public Hearing Held - Approved Conditional Use Permit (CUP) No. 02-04 and Coastal Development Permit (CDP) 02-05 for Seawater Desalination Project (Poseidon); Approved CEQA Statement of Findings of Facts with a Statement of Overriding Considerations; and, Approved the Mitigation Monitoring and Reporting Program as Amended (420.40)

(Redevelopment Agency/City Council) Public Hearing Held - Approved an Owner Participation Agreement (OPA) By and Between the Redevelopment Agency of the City of Huntington Beach and Poseidon Resources Corporation Regarding Development of a Seawater Desalination Plant. (600.30)

Mayor Sullivan announced that this was the time noticed for public hearings to consider the following:

On October 17, 2005 the City Council continued the subject request to the November 21, 2005 meeting to allow Poseidon Resources Corporation to further refine the terms of its proposed offering of benefits to the City. On November 21, 2005 the City Council continued the item to the January 9, 2006 meeting. On January 9, 2006 the City Council continued the item to the February 27, 2006 meeting to allow AES to sign the Owner Participation Agreement. Attachment No. 1 is a revised list of findings and conditions, which incorporate detailed conditions regarding the Franchise Agreement, Water Purchase Agreement, and Owner Participation Agreement (see conditions 4i, 5h, and 5i). A separate staff report has been prepared regarding the Owner Participation Agreement referred to in condition 5i. Attachment Nos. 2 and 3 have been revised to reflect the continuance to the February 27, 2006 meeting. The overall project is described in greater detail in the September 6, 2005 staff report and the pipeline issues in the October 17, 2005 staff report.

Poseidon Resources Corporation (Poseidon) proposes to construct and operate a seawater desalination plant at a site in the Southeast Coastal Redevelopment Area. The Redevelopment Agency of the City of Huntington Beach would like to ensure projected revenues are protected to the greatest extent possible.

Mayor Sullivan announced that the two public hearings would be held concurrently.

Legal notice as provided to the City Clerk's Office by staff had been published and posted.

Associate Planner Ricky Ramos gave a PowerPoint report titled *Conditional Use Permit No. 02-04 Coastal Development Permit No. 02-05 Seawater Desalination Facility*. Deputy City Administrator Paul Emery gave a PowerPoint report titled *Owner Participation Agreement (OPA) Poseidon Resources Corporation and City of Huntington Beach Redevelopment Agency*.

Councilmember Cook asked for clarification on utility use taxes (UUT) and potential litigation. Deputy Emery explained that a difference in interpretations of the law exists between Poseidon and the City. He clarified that Poseidon has stated they will comply with all legal requirements.

Councilmember Hardy inquired about the property's assessed value and what entity decides the value. Deputy Emery replied the County's Tax Assessor sets the value,

however the Owner's Participation Agreement (OPA) sets a "floor" for the value. She asked if another agency could assess the plant, and Deputy Emery responded, stating that is not anticipated, however the "floor" is in the OPA to guarantee a payment. Councilmember Hardy inquired about collection of taxes in the long term, revenue guarantees if the plant is sold, and the status of the Southeast Redevelopment Area. Deputy Emery reported on terms of the OPA, and expiration of the Southeast Redevelopment Area in 2027. Councilmember Hardy asked about the water the City can purchase from Poseidon, water purchased from the MWDOC and current City water use. Public Works Director Robert F. Beardsley reported the City averages 34 million gallons per day in water usage. Utilities Manager Howard Johnson reported on water obtained from MWDOC. Councilmember Hardy asked for clarification on terms provided on pages D1a3 and D1a4 of the agenda packet, and Director Beardsley reported. Deputy Emery noted the relevant agreement information could be found on page D1b.24 of the agenda packet. City Attorney Jennifer McGrath also clarified the franchise agreement would need further negotiation.

Mayor Sullivan declared the public hearings open.

Billy Owens, Applicant, gave an overview of the project and a PowerPoint report. He described additional Poseidon projects which are ongoing and under development, and awards received by Poseidon for research and water quality standards by the water industry. He explained that the proposed desalination plant is not a power plant or a sanitation district, it will not receive subsidies or extend the life of the power plant, and that the technology is not obsolete. He outlined Poseidon's reasons for locating in Huntington Beach and the commitments made to the City. Mr. Owens reiterated benefits the plant will bring to the City, including an emergency water supply, site improvements, financial and job benefits.

Councilmember Cook inquired about comments made about subsidies or waivers, and asked Mr. Owens to comment on UUT. Mr. Owens clarified that interpretations of law are different for the City and for the corporation, and stated Poseidon will comply with the law. Councilmember Cook asked about a MWDOC subsidy, and Mr. Owens stated no private entities could collect the subsidy funds provided by the MWDOC. Councilmember Cook inquired about the California Emergency Services Act, if the emergency water supply in question can be pre-empted by the state. Mr. Owens spoke regarding different levels of emergencies recognized by code.

Applicant Craig Johnson presented a PowerPoint report specific to the project's pipeline. He also introduced David Bauer, who he stated would answer any questions pertaining to soil contamination.

Councilmember Hansen inquired about responsibility for potential damage to residential property during construction. Mr. Johnson explained that typically the contractor is first in line for responsibility.

Councilmember Green asked if a bond would be filed by Poseidon. Mr. Johnson explained Public Works does not typically require a bond in this situation, however he stated it could be written into the contract. Mr. Owens stated Poseidon would take responsibility for any problem during construction and would then pursue the contractor.

Mayor Pro Tem Coerper asked for further clarification on potential necessary repairs. Mr. Owens explained Poseidon would become involved in situations requiring repairs and would respond in a timely manner.

Councilmember Cook voiced her discomfort with statements made verbally and asked for assurances in writing. Mr. Owens commented on franchise agreements, and the potential to include verbiage in such agreements.

Councilmember Bohr commented on typical City requirements for bonds, asking for staff input. Public Works Director Robert F. Beardsley referred to page D1a.17 of the agenda packet, stating the contract does address this issue.

Councilmember Green spoke regarding Sanitation District actions in the past and asked that the agreement include statements requiring Poseidon to address residential repair issues.

Councilmember Hansen asked about the appropriateness of including this type of requirement in a franchise agreement. City Attorney Jennifer McGrath replied, stating the Poseidon agreement offers better protections for the City than the agreement with the Sanitation District did. She stated the franchise agreement would be the appropriate place to make this type of agreement.

Councilmember Green requested the Applicant remain present at the meeting during Public Comments in order to address any questions raised. Mr. Owens agreed to remain present, and to a condition in the agreement for a surety bond if Council requires such. He also commented on communications with Costa Mesa City officials.

The City Clerk announced Late Communications pertaining to this public hearing:

Communication submitted by Tom Luster, California Coastal Commission dated February 27, 2006 and titled *Re: Proposed City Action on Coastal Development Permit No. 02-05 - Seawater Development Project* recommending that the City, at this point in their review, not take action to approve the proposed project, but instead reevaluate the projects conformity to the Local Coastal Program (LCP).

Communication submitted by Paul D. Thayer, California State Lands Commission dated February 24, 2006 commenting on the intent of the California State Lands Commission in considering a resolution on once-through cooling at California coastal power plants as it might relate to desalination facilities and a draft resolution which would have declared that, starting in 2020, the Commission would not renew leases for facilities relating to once-through cooling for coastal power plants.

Communication submitted by John P. Erskine of Nossaman, Guthner, Knox & Elliott, LLP dated February 24, 2006 titled *Supplemental Response of Poseidon Resources Corporation to Written Public and Councilmember Comments Entered on the Record Subsequent to the Close of the September 6, 2005 Poseidon REIR Hearing*.

Communication submitted by Craig Justice dated February 24, 2006 titled *Poseidon CUP/CDP Conditions*.

Communication submitted by Barbara Scott Alcott dated February 27, 2006 titled *Please make sure tonight 2/27*.

Communication submitted by Marie Trout, Fish-Net Productions, Inc., dated February 19, 2006 titled *Poseidon and Pentagon*.

One-hundred sixteen (116) communications in opposition to the approval of Conditional Use Permit (CUP) 02-04 and Coastal Development Permit (CDP) 02-05 for Poseidon Seawater Desalination Project received from the following individuals: Sylvia and Fred Woods, Unknown, Glenna Touhey, Mr. and Mrs. R. P. Heflin, Joe Geever, Surfrider Foundation (3 communications), V. Hutchinson, Mesa Verde Community, Inc., Irene Russner, Cheryl and Steve Bastian, The Coponiti Family, Hedda and Richard Schwim, Dr. and Mrs. Scott Swanson, Ron, Myriam, Steven and David Telles, Edward DeMeulle, Kaelyn Jenkins, Dave Hamilton, Unknown, Tim Geddes, Russell, Ellen, Alex and Derek Bostelman, Rick Gravley, Alyssa Gravley, Michele Burgess, Marc Irvin, Carolyn Ross, Michael Ross, Charles and Suzanne Rosen, Nancy Buchoz, Arthur Weiland, Frank Pekary, A. B. Johnson, Socorro Hubbard, Helen Tvelia, Tom Rasmussen, Pat Myles, Anne De Vusser & Family, Steve Stafford, Lori Costigan, A. J. Diliberto, CFP, James Hunnel, Nancy Koch, Karen Kuchinski, Dick Lenell, Marjorie A. Powers, James P. Powers, Milada Roberts, Charles and Maryann Rozzelle, Mary Surprenant, Jan D. Vandersloot, MD, Yen-ning Kao and Kuo-ti Kao, Ross and Diane Miller, Cindy and Chuck Newman, Kimber Smith Fidler, Bill and Bunny Wetzel, Unknown, Vicky McGavack RN COHN-S, Steve and Darlene Clifford, Norman and Ellen, Randall and Victoria Bruno, Lois N. Whelan, Hatala Family, R. Iturriaga, Ph.D., Bernice Malkin, Jerry Miller and Rosemarie McKowen-Miller, Lynne Baker, Lena and Steve Hayashi, Bobbie Miller, Anatoly Brohin, Alice and Scott Toth, Chuck Allen, Doris Bailey, Curtis L. Stelley, Varini de Silva, Robert V. Harris and Mary S. Harris, Carolyn and John Lewis, Kim Barone, Don Farmer and Janet Barkawi, Norman and Ethel Bergman, John Quinlan, David and Elena Hedlund, Scot Oschman, Gary Benedict, Betty Jean and Jennifer Percival, Unknown, Dave Whitaker, Charlie Hunt, Christopher Condon, Tom Simpson, Carole K. Lung, Katherine Stoddard, Frank Provost, Robin Dujanovic, Darren Magot, Jim Dishon, Patricia Pope, Glenn Selvin, Joseph and Joan Ongie, Ric Button, Earl L. Brashears, Fernando and Ramona Kobbe, Pat Myles, William and Sarah Cerri, Ed and Sharon Anderson, Dan Bon, Unknown, Phillip Empey, Barry Repsher, Kay Mylod, Meg Watson, Claudette Ruzicka, Betty Angell, The da Silva Family, Julia Hughes, Tom and Carol Welch, Ann Harvey, Ms. K. Shawn Thompson-McGarrigle, PE, and Jim Moreno.

Thirty-one (31) communications in favor of the approval of Conditional Use Permit (CUP) 02-04 and Coastal Development Permit (CDP) 02-05 for Poseidon Seawater Desalination Project received from the following individuals: Gary and Linda Wheaton, Rick and Dee Taylor, Dallas Weaver, R. T. and Suzanne Rubel, Harvey Levin, Henry 'Bill' Hartge, Bob Kramer, Steve Harrison, Walter Reed, Bob and Kathleen Dutton, Jess Carranza, Cliff Stone, Lisa O'Loughlin, Wendell and Sue B. Warner, Craig and Christy Impelman, Dean S. Williams, Tom Polkow, Pat Clynes, Chris Costello, Robert and Nancy Harrison, Steve and Betty Holden, Richard Kolander, George Nierlich, Larry J. Rolewic, Jim and Joyce Wilson, Robert A. and Carol A. Hardy, Clifford and Barbara Anderson, Claire and Siegmund Grozinger, Robert Harrison, and Nancy Harrison.

Councilmember Cook asked if staff would respond to a Coastal Commission letter received as a Late Communication. Principal Planner Mary Beth Broeren responded, stating a staff oversight inadvertently omitted some of the Findings' language. She stated the language would be added prior to approval, recommending two changes to the Findings. Councilmember Cook voiced her opinion that the added brine discharge resulting from the desalination plant will have a negative effect on the environment.

Public Speakers

Pete Minko thanked the three Councilmembers who voted not to approve the Environmental Impact Report (EIR). He voiced his opposition to the proposed desalination plant and refuted the findings of the EIR. Mr. Minko spoke regarding what he referred to as Ascon-Nesi cleanup delays and urged Council to vote "No" on the Poseidon project.

Ken Maylone, 20-year resident, voiced some concerns pertaining to the pipeline, stating, however, that a pipeline on Orange Avenue the City is currently managing has caused very little inconvenience to residents. He stated Public Works should be commended, and encouraged Council to approve the desalination project.

Cathy Meschuck, resident, asked Council to consider citizens first when considering approval of the Conditional Use Permit (CUP). She spoke in support of the proposed desalination project and asked Councilmembers to vote "Yes."

Sandi Wright, construction worker with Local 652 and resident, voiced her support for the proposed desalination project for reasons including the creation of additional jobs.

Joyce Riddell, speaking on behalf of the Huntington Beach Chamber of Commerce, stated support for the desalination project for reasons including tax benefits, an added water source, job creation, and no cost to taxpayers. She urged Council to vote "Yes."

Rick Williams, 23-year resident, stated he had received 6,000 communications in favor of the desalination project. He offered suggestions to Council on dealing with misinformation, and declared his support for the project.

Glen Nolte, affiliated with Plumbing and Steamfitters Local Union 582, asked that any union members present in the audience stand. He voiced his support for the desalination project.

Don MacAllister, 40-year resident, spoke in favor of the desalination project. He stated reasons for support including refilling of the aquifer and financial benefits to the City. Mr. MacAllister urged Council to vote "Yes."

Eddie Barnes, 50-year resident who stated he represents union craft workers, voiced support for the desalination project. He gave reasons including job creation, added water source, and financial benefits and urged Council to vote "Yes" on the project.

Todd Priest, Vice President of the Orange County Business Council, spoke in support of the desalination project stating a need for additional water sources.

Dustain Hollaway, resident, voiced his support for the desalination project stating it will create an additional clean water source for the City.

Philip Salerno, Fountain Valley resident and union representative, voiced his support for the desalination project for reasons including job creation and an added water source.

George Cross, 43-year southeast Huntington Beach resident, stated his support for the project stating his opinion it is good for the City.

Ray Valencia, 12-year resident and union member, thanked Council for the opportunity to speak. He voiced his support for the desalination project for reasons including job creation and added water source.

Victor Long, 46-year resident, voiced his support for the desalination project. He also spoke regarding prevailing wage issues and thanked Council for their efforts.

Mickey Totten, resident, spoke in support of the desalination project, asking labor union members who were present in the audience to stand.

Jim Adams, Counsel for Los Angeles and Orange County Building and Construction Trade Council, spoke in support of the desalination project. He urged Council to approve the project and negotiate the best Owners' Participation Agreement (OPA) possible.

Bob Smith spoke in opposition to approval of the CUP. He asked that Council better identify risks to the City should the project be unsuccessful. He also voiced concerns regarding the accuracy of the report that lists benefits to the City.

Topper Horack voiced his opposition to the desalination project, stating some experts refute the need for additional water sources. He also questioned Poseidon's ability to supply water to the City in emergency situations.

Jean Roberts, 17-year resident, spoke in opposition to the desalination project stating concerns with a corporation privatizing water.

Louis Pando, 12-year resident and Plumbers' Union member, stated his support for the desalination project.

William C. Meyers, resident and union member, stated during his military service he used desalinized water for every need. He asked Council to vote "Yes" on the project.

Marinka Horack urged Council to vote "No" on the desalination project. She voiced her concerns with benefits to the citizens and with the water being sent to South Orange County. Ms. Horack also spoke regarding the Tampa Bay plant and alleged costs to citizens. She urged Council to vote "No" on the project.

Sean Brandlin voiced his opposition to the proposed desalination plant. He stated concerns with what he referred to as a private entity owning public trust values and with the environmental effects. Mr. Brandlin encouraged Council to vote "No."

Jim Spry, 7-year resident and union member, spoke in support of the desalination project and jobs created for union labor.

Bob Polkow, southeast resident, spoke in support of the desalination project stating that many southeast residents also support the project.

Piedmont Brown, former resident and union member, spoke in support of the desalination project. He urged Council to vote for its approval.

Ray Burrue, union member, spoke in support of the desalination project. He stated his opinion on water conservation efforts and rationing.

Joe Geever, Southern California Regional Manager, Surfrider Foundation, voiced his opposition to the desalination project. He stated concerns with environmental effects, and inadequacies in the EIR. Mr. Geever spoke regarding the Local Coastal Program (LCP) stating the staff report fails to fully address the requirements.

John Morris, member of the Surfrider Foundation, voiced his support for the desalination project.

Davey Dove, 35-year resident, spoke in support of the desalination project for reasons including job creation.

Sarah Abramson, Heal The Bay staff scientist, voiced concerns with what she referred to as inadequacies within the EIR and urged Council to vote "No."

Eileen Murphy, affiliated with Residents for Responsible Desalination (R4RD) urged Council to deny the CUP. She thanked the Councilmembers who voted "No" on the EIR, and asked them to vote "No" on the CUP/CDP.

Mike Pino, resident and union member, voiced his support for the desalination project for reasons that include job creation.

Tim Geddes, 20-year resident, asked Council to consider if there is a need for the desalination project and to vote accordingly. He voiced his opposition to the project and alleged the pipeline PowerPoint report presented earlier by the Applicant has numerous inadequacies.

Councilmember Hansen asked Mr. Geddes to clarify comments he had made about the OPA agreement. Mr. Geddes replied, stating his concern with the money being set aside for the City to be used at the Council's discretion. Councilmember Hansen asked Mr. Geddes to clarify his comments pertaining to the pipeline report. Mr. Geddes stated concerns with the crossing of pipes, and his opinion that sixteen inches of separation are recommended. Responding to Council inquiry, staff reported four inches of separation are acceptable. Mr. Geddes commented on pipeline construction work hours, asking how the hours will be feasible near schools.

Councilmember Green read from an email, which she stated was disparaging to her, and asked Mr. Geddes to comment on whether he sent it and what it meant. Mr. Geddes stated the email was meant to be a joke.

Trish Gray spoke in opposition to the desalination project, referring to articles she submitted as Late Communications. She voiced concerns with the impact on tourism, who will benefit from the water, and the reliability of the company.

Mike Sweeney, Laguna Beach resident and Surfrider Foundation member, voiced his opposition to the desalination project. He spoke regarding reverse osmosis systems and their impacts on the environment.

Joseph Mastopaolo, 40-year resident, spoke in opposition to the desalination project and submitted a Late Communication. He stated his opinion there is no need for new water sources since the groundwater reserves are full. Mr. Mastopaolo stated concerns that the plant will pollute the water and urged Council to vote "No."

Stephen Holden, 40-year resident, urged Council to support the desalination project.

Cathy Daugherty, President of the Association of Women Business Owners, spoke in support of the desalination project as an important water source.

Ryan Townsend, resident and union member, spoke in support of the desalination project as a source of additional jobs.

Josh Wiggins, resident, spoke in support of the desalination project for reasons including added jobs and revenue for the City. He urged Council to consider the younger generation and the City's future water needs.

Kevin O'Brien stated he was involved in the financing of the desalination project in San Juan Capistrano that came online December 2005 and voiced his support for the Huntington Beach project.

Clayton King spoke in opposition to the desalination project stating concerns with Poseidon's goals for the plant. He alleged the plant would be sold before the costs are recouped, and stated he is concerned about future potential litigation.

Jean Kulemin, Chairman of the Government Relations Committee for the Association of Realtors, spoke in support of the desalination project. She stated her opinions regarding population growth and the future needs for water and urged Council to support the project.

Jim McLaughlin, realtor in Huntington Beach, refuted comments made about lower property values in southeast Huntington Beach and stated he has interested buyers. He urged Council to approve the project.

Darnell Wyrick, affiliated with Mesa Verde Community Inc., spoke in opposition to the desalination project stating concerns with the pipeline construction. He urged Council to deny the CUP.

Cindy Brenneman, member of the Mesa Verde Community Inc. Board of Directors, voiced her opposition to the desalination project. She thanked Councilmember Cook for the questions she had asked earlier and urged Council to vote "No."

David Coffman spoke in opposition to the desalination project for reasons including odors at the Ascon landfill, sanitation project delays, and potential poor street conditions.

Monica Ruzich-Hamilton, resident, spoke in opposition to the desalination project stating her opinion the City should allow technology to develop before moving forward. She asked Council to deny approval of the project.

Larry Porter, affiliated with R4RD, spoke in opposition to the desalination project. He voiced concerns with what he referred to as Poseidon's lack of success, and with streets conditions and pollution.

Miguel Abramowicz, affiliated with the Southeast Huntington Beach Neighborhood Association (SEHBNA), spoke in opposition to the desalination project citing concerns with the environment and with financial benefits to the City. He stated his interest in seeing tourism grow in the City.

Roy McCord, affiliated with SEHBNA and 20-year resident, thanked Councilmembers for their time and voiced his opposition to the project. He also voiced concerns about comments made earlier by speakers and with selling water for profit.

Peter Albini, former Council candidate, spoke in support of the desalination project and urged Council vote "Yes."

Eben Sprague voiced his opposition to the desalination project stating that the company has no track record and voiced his concerns about the environment.

Rex Ricks spoke in opposition to the desalination project asking why other cities are not competing for the project. He addressed comments made earlier by realtors and by unions, refuting the benefits they spoke of. Mr. Ricks asked Council to think long-term and to oppose the project.

Larry Barnard, resident, stated he is a frequent visitor to the Pier the Beach and voiced concerns for the sea life. He voiced his opposition to the desalination project and his concern with the current pipeline project on Bushard Street. Mr. Barnard urged Council to deny approval of the project.

Mayor Sullivan asked the public to please refrain from using cellular phones in the Council Chambers, as they interfere with the audio devices.

Dallas E. Weaver, Ph.D., spoke regarding filtration, salination, and energy use. He explained energy use to transport water from reservoirs would be equal to that used by the proposed desalination plant.

Rich Loy, resident since 1947, voiced his opposition to the desalination project for reasons including tourism and aesthetic concerns. He urged Council to vote "No."

John Earl spoke in opposition to the desalination project, suggesting negative financial consequences if it is approved. He urged Council to consider greater conservation.

Joe Bustos, union member, spoke in support of the desalination project for reasons including job creation and future residents' water supply.

Dave Guido, President of Huntington Beach Tomorrow, spoke in opposition to the desalination project. He voiced concerns with Poseidon's prior projects, with the threat to the ocean, and with benefits listed in the Poseidon report. He urged Council to vote "No."

Nancy Donaven voiced her opposition to the desalination project and spoke regarding a Chevron advertisement that addressed oil shortages.

Firecracker Westwell, former Council candidate and Libertarian Party member, spoke in support of the desalination project. He asked Council to consider the facts of the project and not the emotions displayed, thanked them for making themselves informed on the issue, and asked them to approve the project.

Cindy Cross spoke in support of the desalination project and asked Councilmembers to exercise leadership in making a decision. She urged Council to approve the project.

Robin Leffler, Mesa Verde Homeowners' Association member, thanked Council for the opportunity to speak. She spoke in opposition to the project, citing environmental concerns, and that the proposed \$1.9 million fund will be inadequate to address damages caused by pipeline construction. Ms. Leffler also stated her concerns about noise.

Allison Garcia, southeast resident, voiced her opposition to the desalination project and urged Council not to approve it. She stated concerns with the pipeline construction's impact on traffic, environmental impacts, and potential property damage.

Warren Barkfelt, southeast resident since 1967, spoke in opposition to the desalination project stating the cities in the South Orange County will benefit from the plant and therefore should build it.

Sandra Genis, affiliated with R4RD, spoke in opposition to the desalination project stating concerns with the EIR, adverse impacts, and zoning.

Ed Zschoche voiced his opposition to the desalination project stating concerns with benefits offered to the City and with added industrial uses in the southeast area of the City. He urged Council to vote "No."

Jan Vandersloot gave a PowerPoint presentation and spoke regarding the cooling method used by the power plant and a resolution proposed by the California State Lands Commission. He voiced his opposition to the desalination project.

Councilmember Green asked staff about the letter received from the State Lands Commission. Principal Planner Mary Beth Broeren read the fourth paragraph of the letter, which referred to once-through cooling at power plants.

Reed Royalty, President of the Orange County Taxpayers' Association, voiced his support for the desalination project for reasons including taxes that would be generated for City uses and the benefit of a new water source.

Ellen McMahan, affiliated with the Bolsa Chica Land Trust and Amigos de Bolsa Chica, spoke regarding her childhood experiences fishing and swimming in the ocean. She stated her concerns with the environmental effects of the desalination project and refuted the number of jobs others have said will be created by the project. Ms. McMahan voiced her opposition to the project.

Pat Goodman, resident, voiced her opposition to the desalination project, stating concerns with what she referred to as private control of a public trust. She asked Council to deny the CUP.

Stephanie Barger, Executive Director of Earth Resource Foundation, congratulated the Public Speakers on their comments at the meeting. She stated her opposition to the desalination project and refuted some statements made by the Applicant.

Tom Simpson, 25-year resident, voiced his opposition to the desalination project stating concerns with the status of previous Poseidon projects.

Vic Leipzig, resident, voiced his support for the desalination project for reasons including an added water supply. He urged Council to support the project.

Flossie Horgan read a letter pertaining to the Tampa Bay desalination plant and voiced her opposition to the desalination project. She urged Council to deny the CUP.

Don McGee, resident, voiced his opposition to the desalination project stating his opinion that the decision is about the funds received by the City.

Van Champion, 8-year resident, spoke in opposition to the desalination project stating concerns about what the money received will be used for, for environmental effects, and for giving a corporation control of public water.

Councilmember Hansen requested a ten-minute recess. The Council recessed from 10:36 p.m. to 10:50 p.m.

Mayor Pro Tem Coerper asked about desalination projects in the area within the last 30 years. Director Beardsley reported plants were built in the 1970's and in the 1980's, operated by the Orange County Water District.

Mayor Sullivan asked the Applicant if he would like to speak prior to closing the Public Hearing. Mr. Owens stated he would like to address any Council questions posed to him.

Mayor Pro Tem Coerper inquired about the Coastal Commission requirements. Principal Planner Broeren reported a separate application would be required by the Commission. The Mayor Pro Tem asked the Applicant to comment on the Tampa Bay plant issues. Mr. Owens explained the Huntington Beach plant would have greater oversight and that the contractors who designed the plant have been carefully

selected. Nickolay Voutchkov, Technical Director for Poseidon Resources, spoke regarding differences between the water sources in Tampa Bay and Huntington Beach, and of technologies tested over the past few years that will provide an improvement. He stated comparable plants exist in Israel and Spain, and locally in the City of Carlsbad. Mayor Pro Tem Coerper asked about potential sale of the plant and any plans in place if AES stops operating. Mr. Owens responded, stating that Poseidon has an option to purchase the AES property in such an event. The Mayor Pro Tem inquired about potential water customers, and Mr. Owens reported the company currently has no firm customers. Mayor Pro Tem Coerper asked for clarification pertaining to the City's emergency access to desalinated water, and Mr. Owens reported on the terms of the OPA. The Mayor Pro Tem asked about earthquake risks to the plant, and Mr. Voutchkov stated the plant has been designed to withstand an 8.5-9.0 earthquake and still be able to produce water. He confirmed that the storage tank and pump stations would be accessible to the City in the event of an emergency. The Mayor Pro Tem inquired about pipeline construction, plans to avoid problems experienced with the Sanitation District project, and potential for chemicals from the Ascon site to pollute the pipeline. Mr. Owens explained that a different type of pipeline is proposed for this project. Dave Bauer reported on studies of the Ascon Landfill and the method of taking soil samples prior to construction. Mayor Pro Tem Coerper asked about funds invested in the project by Poseidon, the cost of building the plant, and the number of employees required to build the project. Mr. Owens reported \$6-\$7 million has already been spent on the project, with a projected total of approximately \$250 million and close to 2,000 jobs provided over the two-year construction period. Mayor Pro Tem Coerper asked for clarification on the amount of the bond Poseidon would provide to ensure project completion. Andrew Kagin reported two bonds would be provided: a bond for full contract value plus liquidated values, and a restoration bond tied to the OPA.

Councilmember Cook thanked the other Councilmembers for the time they have spent to educate themselves on the issue and thanked Poseidon Resources for the opportunity to learn more about desalination. She gave a PowerPoint presentation titled *The Water-Energy Nexus, California's Energy Security Demands Water Conservation* stating that due to the increases in energy costs, if the plant is built, it will never operate. She encouraged conservation as a solution.

Councilmember Hardy asked for clarification on the City's access to water in an emergency, and on the requirement to purchase 3.2 million gallons of water per day. Director Beardsley explained there is a seven-day agreement for emergencies. City Attorney McGrath explained the 3.2 million gallon purchase is an option to the City, and that further negotiations pertaining to the Water Purchase Agreement (WPA) are necessary. Councilmember Hardy inquired about the price of the emergency water, and Director Beardsley reported the price is the same as for the 3.2 million gallons the City has an option to purchase.

There being no persons present to speak further on the matter and there being no further protests filed, either written or oral, the Mayor declared the public hearing closed.

Councilmember Bohr asked for clarification on the Statement of Overriding Considerations. Principal Planner Broeren explained there would be an adverse short-term effect from the construction. Councilmember Bohr asked about Poseidon's corporate status, and City Attorney McGrath reported.

Mayor Sullivan voiced his opposition to the project for reasons including no immediate need for desalinated water, a U.S. study currently being done in Long Beach which uses different technology, energy requirements for the plant, problems in Tampa Bay, prolonging of life of the AES plant, and the potential negative effects on tourism.

Mayor Pro Tem Coerper stated his reasons for supporting the Recommended Action including an added water supply, financial benefits, repairs to streets, improvements to the area, and other long-term benefits to the City.

Councilmember Bohr stated his reasons for supporting the Recommended Action including benefits to the City from a new water source, low financial risk to the City, his goal to make the right decision for the entire City, and a lack of significant environmental issues.

Councilmember Hardy stated her reasons for opposing the Recommended Action including no current need for the water, current technology levels in the area of desalination, energy requirements of the plant, the status of the AES plant, environmental effects, and the question of who is going to purchase the remaining 46 million gallons of water produced daily by the plant. She also stated her opinion the plant will induce population growth in the County.

Councilmember Cook asked Mayor Pro Tem Coerper if he supports litigation to collect the UUT the City feels it is entitled to. Mayor Pro Tem Coerper asked Poseidon for clarification on its intentions, and Mr. Owens reiterated Poseidon would comply with the law. Mayor Pro Tem Coerper stated he would not support litigation in the matter. Councilmember Cook inquired if a citizen could initiate a lawsuit to pursue payment of UUT. City Attorney McGrath explained the process that would be required, stating a citizen may initiate a lawsuit but the City would need to be a party to the lawsuit.

Councilmember Hansen stated his opinion that discussion of litigation is premature. He asked the Applicant to respond to the concerns presented. Mr. Owens reported Poseidon would agree to a process to resolve the difference of interpretation. Councilmember Hansen suggested setting parameters for the compromise at this meeting. Mr. Owens declined to negotiate the issue in public. Councilmember Hansen stated his reasons for supporting the Recommended Action including a new water source to address future needs, his support for a private company to develop the plant, and opportunities for redevelopment to the southeast area. He also stated he would support litigation to pursue UUT if necessary.

Councilmember Green stated her reasons for supporting the Recommended Action including her opinion that a desalination plant will be built in Huntington Beach, the financial benefits to the City, a lack of significant environmental impacts, the project adheres to code and zoning regulations, and the need for new water sources in desert communities.

A motion was made by Coerper, second Bohr to 1. "Approve Conditional Use Permit No. 02-04 and Coastal Development Permit No. 02-05 to permit the Seawater Desalination Project with staff recommended findings and conditions of approval (Attachment No. 1)."

2. "Approve CEQA Statement of Findings of Facts with a Statement of Overriding Considerations (Attachment No. 2)." 3. "Approve the Mitigation Monitoring and Reporting Program (Attachment No. 3)" **as amended** on page D1a.9 item i and page D1a.11, third paragraph. The motion carried by the following roll call vote:

AYES: Bohr, Green, Coerper, and Hansen
NOES: Sullivan, Hardy, Cook

A motion was made by Coerper, second Bohr to upon approval of Conditional Use Permit No. 02-04 and Coastal Development Permit No. 02-05 by the City of Huntington Beach to permit the Seawater Desalination Project, approve and authorize execution by the Chairman, Executive Director and Agency Clerk the Owner Participation Agreement (OPA) by and between the Redevelopment Agency of the City of Huntington Beach (Agency) and Poseidon Resources Corporation (Participant) including the consent of the site owner. The motion carried by the following roll call vote:

AYES: Bohr, Green, Coerper, and Hansen
NOES: Sullivan, Hardy, and Cook

**FINDINGS AND CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. 02-04/COASTAL DEVELOPMENT PERMIT NO. 02-05**

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 02-04:

1. Conditional Use Permit No. 02-04 for the establishment, maintenance and operation of a seawater desalination project producing 50 million gallons of potable water per day which includes a 10,120 square foot administration building, 38,090 square foot reverse osmosis building, 36,305 square foot product water storage tank (30 foot high), other related accessory structures; perimeter landscaping and fencing along the project's frontage on Newland Street and Edison Avenue; and up to four miles of water transmission lines will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The project will result in the demolition of three 40-foot high fuel storage tanks to be replaced with one 30 foot high water storage tank and lower profile and modern structures with a more attractive design consistent with the city's adopted Design Guidelines. The project will further enhance the appearance of the area with the installation of 10 to 20 feet of landscaping and an eight-foot high block wall along the Edison and Newland street frontages to provide additional screening and a consistent and upgraded appearance in contrast to the existing improvements.

2. The conditional use permit will be compatible with surrounding uses because the project as proposed and modified by the conditions imposed is compatible with the properties immediately surrounding it which are primarily industrial in nature. Additionally, significant setbacks including Newland Street to the west, Edison Avenue to the north, the flood control channel to the east, an existing concrete berm, 10 to 20 feet of landscaping and an eight foot high block wall along the project's Edison and

Newland street frontages provide additional screening from surrounding uses. Impacts pertaining to noise, light/glare, odors, and use of chemicals are also addressed to make the project compatible.

3. The proposed seawater desalination project including a 10,120 square foot administration building, 38,090 square foot reverse osmosis building, 36,305 square foot product water storage tank, other miscellaneous accessory structures; perimeter landscaping and fencing along the project's frontage on Newland Street and Edison Avenue; and up to four miles of 48-inch water transmission lines will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance and any specific condition required for the proposed use in the district in which it would be located. The project as proposed and modified by the conditions of approval is consistent with the PS-O-CZ (Public-Semipublic - Oil Production Overlay - Coastal Zone Overlay) zoning district, and meets or exceeds the minimum development standards set forth therein, and is allowed subject to approval of a conditional use permit and coastal development permit.

4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of P(Public) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

a. LU 7.1.1 - Accommodate existing uses and new development in accordance with the Land Use and Density Schedules.

b. LU 12.1.5 - Require that new and recycled industrial structures and sites be designed to convey visual interest and character and to be compatible with adjacent uses, considering the: a. use of multiple building masses and volumes to provide visual interest and minimize the visual sense of bulk and mass; b. architectural design treatment of all building elevations; c. use of landscaping in open spaces and parking lots, including broad landscaped setbacks from principal peripheral streets; d. enclosure of storage areas with decorative screening or walls; e. location of site entries to minimize conflicts with adjacent residential neighborhoods; and f. mitigation of noise, odor, lighting, and other impacts.

c. LU 13.1.8 - Ensure that the City's public buildings, sites, and infrastructure improvements are designed to be compatible in scale, mass, character, and architecture with existing buildings and pertinent design characteristics prescribed by this General Plan for the district or neighborhood in which they are located, and work with non-City public agencies to encourage compliance.

d. UD 2.1: Minimize the visual impacts of new development on public views to the coastal corridor, including views of the sea and wetlands.

e. CE 7 - Maintain and enhance the visual quality and scenic views along designated corridors.

The project will be an improvement to the area because it will result in the demolition of three 40-foot high fuel storage tanks. The new proposed structures are more compatible with the surroundings because they are lower in height and have a more attractive

design consistent with the General Plan and Design Guidelines. There are limited views across the Huntington Beach Generating Station (HBGS) site due to the height of the existing structures. However, views will be improved to the extent that the new proposed desalination project structures have a lower profile than the existing fuel storage tanks proposed to be demolished. The project is required to provide a 10-foot landscape planter along the perimeter of the site to enhance the appearance of the area. These landscaping improvements are required to be consistent with the approved landscaping improvements for the rest of the HBGS property to the south for a cohesive appearance.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 02-05:

1. Coastal Development Permit No. 02-05 for the development of the desalination project and approximately one mile of water transmission lines within the Coastal Zone, as proposed and modified by conditions of approval, conforms to the General Plan, including the Local Coastal Program by implementation of the following Coastal Element goals, objective, and policies:

a. C 1.1.1 - With the exception of hazardous industrial development, new development shall be encouraged to be located within, contiguous or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services, and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

b. C 1.2.1 - Accommodate existing uses and new development in accordance with the Coastal Element Land Use Plan and the Development and Density Schedule Table C-1.

c. C 4.2.1 - Ensure that the following minimum standards are met by new development in the Coastal Zone as feasible and appropriate: a. preservation of public views to and from the bluffs, to the shoreline and ocean and to the wetlands; b. adequate landscaping and vegetation; c. evaluation of project design regarding visual impact and compatibility; and d. incorporate landscaping to mask oil operations and major utilities, such as the electrical power plant on Pacific Coast Highway.

d. C 4.7 - Improve the appearance of visually degraded areas within the Coastal Zone.

e. C 4.7.1 - Promote the use of landscaping material to screen uses that detract from the scenic quality of the coast along public rights-of-way and within public view.

f. C 4.7.5 - Require the review of new and/or expansions of existing industrial and utility facilities to ensure that such facilities will not visually impair the City's coastal corridors and entry nodes.

g. C 4.7.8 - Require landscape and architectural buffers and screens around oil production facilities and other utilities visible from public rights-of-way.

h. C 4.7.9 - Require the removal of non-productive oil production facilities and the restoration of the vacated site.

i. C 6.1.1 - Require that new development include mitigation measures to **enhance water quality, if feasible; and, at a minimum**, prevent the degradation of water quality of groundwater basins, wetlands, and surface water.

j. C 6.1.13 - Encourage research and feasibility studies regarding ocean water desalinization as an alternative source of potable water. Participate in regional studies and efforts where appropriate.

k. C 6.1.19 - Prior to approval of any new or expanded seawater pumping facilities, require the provision of maximum feasible mitigation measures to minimize damage to marine organisms due to entrainment in accordance with State and Federal law.

l. C 7.1.3 - Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

m. C 7.1.5 - Notify State and Federal agencies having regulatory authority in wetlands and other environmentally sensitive habitats when development projects in and adjacent to such areas are submitted to the City. The implementation of any Habitat Conservation Plan shall require an amendment to the Local Coastal Program. Incidental take of sensitive habitat and/or species that occurs in the context of development must be consistent with this LCP.

n. C 10.1.4 - Require appropriate engineering and building practices for all new structures to withstand ground shaking and liquefaction such as those stated in the Uniform Building Code.

The proposed desalination project is located within an unused fuel oil storage tank facility constructed in 1961 and formerly owned and operated by Southern California Edison. In addition to the proposed desalination facility site, the proposed project would also include several related off-site improvements, including tie-in pipelines between the existing HBGS condenser cooling water discharge system and the proposed desalination project, and up to approximately 4 miles of product water delivery. The intake/discharge pipelines would be located entirely within the existing HBGS site. The majority of the product water delivery pipeline would be located within existing public streets, easements, or other rights-of-way in urban areas. As such, the proposed new development is located within existing developed areas.

The proposed use is consistent with the Coastal Element Land Use Plan designation of P (Public) for the site. The proposed use is compatible and consistent with the industrially designated properties immediately surrounding the subject site and meets the requirements of the Coastal Element of the Land Use Plan and the Development and Density Schedule.

The project will improve the appearance of the area by demolishing three existing unused 40-foot high fuel storage tanks and replacing them with lower profile, modern, and more attractive structures. The proposed structures vary in height from a maximum of 30 feet for the water tank to a minimum of six feet high for the ammonia tank. The proposed desalination project will not impact public views to the coast. There are limited

views across the HBGS site due to the height of the existing structures. However, views will be improved to the extent that the new proposed desalination project structures will have a lower profile than the existing fuel storage tanks proposed to be demolished.

A 10 foot and 20 foot planter along the lease area street frontage on Edison and Newland respectively will further improve the appearance of the project with attractive landscaping. In addition, the proposed pipeline alignment is situated below ground and will not impact public views or require landscaping to minimize visual impacts.

As conditioned, the project is required to prepare a final landscaping plan along Edison Avenue for approval by the Design Review Board that is consistent in design, colors and materials with the landscaping for HBGS for a cohesive appearance. In addition, the conditions of approval for the project require a minimum of six percent landscaping over the entire 11-acre lease area, and that landscaping along the Newland and Edison lease area street frontages include the densest type and number of trees to provide the most effective screening possible, which must be maintained to the approval of the City Landscape Architect. Landscaping within the eastern portion of the site will consist of native wetlands planting for compatibility with the wetlands to the southeast.

In addition, the bottom portion of these structures will be hidden behind the existing berm along the perimeter. As noted above, the proposed structures are in substantial compliance with the Design Guidelines by employing variations in form, building details, colors, and materials that create visual interest, and the design is carried through all the structures including the architectural screen for the tanks to achieve a unified theme.

Furthermore, the conditions of approval also require that utility meters be screened from public view, that electric transformers be enclosed in subsurface vaults, that backflow prevention devices be prohibited in the front yard setback and be screened from view. The conditions further require that all exterior mechanical equipment be screened from view on all sides, and that rooftop mechanical equipment be setback from the exterior edges of buildings.

The Recirculated Environmental Impact Report analyzed the potential impacts of the project on water quality generally, as well as both ocean water quality and product water quality. Based on the analysis contained in the Recirculated EIR, no mitigation measures are required to protect **or enhance** ocean water quality. However, the Recirculated EIR contains a number of mitigation measures designed to prevent the degradation of **and enhance** water quality in groundwater basins, wetlands, surface water and product water. These mitigation measures are contained in the Recirculated Environmental Impact Report for the project.

The Recirculated Environmental Impact Report analyzed the potential impacts to marine organisms due to entrainment and concluded that no mitigation measures were required. The Recirculated EIR noted that entrainment is currently permitted for the once-through cooling water system of the HBGS, and that the proposed desalination facility does not directly take seawater from the ocean, and that withdrawal of feedwater for desalination is from the HBGS cooling-water discharge and not subject to intake regulation under the Federal Clean Water Act (316b). In addition, the proposed project will not alter in any way existing HBGS cooling water intake operations. For these

reasons, no mitigation measures are required to reduce entrainment impacts to marine organisms.

The desalination project is surrounded by other industrial properties, a 145-foot wide flood control channel, HBGS, and a wetland area to the southeast. The wetland area is separated from the project by an existing berm. The project has been designed to not create any impacts to the adjacent wetlands. Nonetheless, a number of mitigation measures will be required to ensure that impacts to the adjacent wetlands are minimized.

State and Federal agencies with regulatory authority in wetlands and other environmentally sensitive habitats have been consulted as part of the CEQA process for the project. These agencies include, among others, the US Fish and Wildlife Service, California Department of Fish and Game, and California Coastal Commission.

The project as conditioned will require compliance with the standards set forth in the most recent edition of the Uniform Building Code to assure safety of the occupants and seismic safety to the satisfaction of the Department of Building and Safety prior to issuance of a building permit.

Lastly, the project is an ocean water desalination plant that will create an alternative source of potable water. When the project is completed, it will provide Orange County with 50 million gallons of potable water per day, accommodating the needs of Orange County regardless of weather or governmentally imposed conditions affecting water supply. By building the facility and locating it in Huntington Beach, the facility will demonstrate the opportunities offered by desalination, and will offer cities, counties, and the State of California a tangible example of how desalination can become more widely accepted throughout the state and the nation, and will encourage additional research and feasibility studies regarding ocean water desalination as an alternative source of potable water.

2. The project is consistent with the requirements of the CZ Overlay District, O Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code. The project meets or exceeds all minimum development standards including but not limited to setbacks, height, and parking. The project is conditioned to require compliance with all Public Works, Fire, and Building and Safety Department codes and requirements. The project conforms to the City's Design Guidelines and incorporates variations in form, building details, colors, and materials that create visual interest. The project provides buffering from sensitive uses such as residential developments through landscaping, a block wall, and increased setbacks. The perimeter wall is designed in a manner to create an attractive appearance and will be consistent with the wall design approved for the portion of the HBGS property to the south for a cohesive appearance.

The project meets all the requirements of the O Overlay District. The project meets the minimum size requirements, and the project includes a reuse plan to remediate property that has been contaminated by previous oil-related use. The property is conditioned to operate in compliance with Title 15, Uniform Fire Code, and any other applicable Federal, State, County, or local rules and regulations, and must be approved by the Fire Department. Non-permitted equipment will not be allowed to be used on the project site,

and all requirements for the use of an O overlay zone have been or will be met, including dedication requirements.

The project meets all the applicable requirements for the CZ overlay district. The project preserves and improves existing visual resources and complies with maximum height limitations, off-street parking requirements, landscaping requirements, and other requirements. Due to the industrial nature of the project location, there is currently no public access at the site; therefore public access will not be affected by the project.

3. At the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project is an infill development, which as conditioned and with the implementation of all mitigation measures will provide all necessary infrastructure to adequately service the site and not impact adjacent development. This includes dedication and improvements to the project lease frontage along Edison Avenue to improve circulation in the area.

The proposed project will comply with City of Huntington Beach Fire Department requirements, including the installation of fire sprinklers and fire hydrants, and impacts of the project on the Fire Department are not expected to be significant. There are no anticipated additional impacts of the project on Police protection. The project is expected to have little or no impact on libraries. The project backers will have some responsibility for roadway maintenance, and impacts on roadway maintenance caused by the project are expected to be less than significant. The project is anticipated to have a negligible impact on parks and recreation facilities within the City. Project impacts to existing wastewater facilities are expected to be minimal, and the project plans are anticipated to include a new sewer line or private sewer system to accommodate additional wastewater. A local stormwater drainage system would be implemented as part of the site facility, and stormwater would be treated on-site prior to off-site discharge. The project would require new facilities to support operational water uses, but these uses are not expected to create significant impacts. There are no significant impacts of the project on reclaimed water use. The project would not create any significant impacts on the disposition of solid waste. The project's power demand would be less than one percent of the demand within Orange County or Southern California, and are anticipated to be less than significant. No impacts on natural gas supply are anticipated in the implementation of the project. No significant impacts on telephone and cable service are anticipated by the project.

4. The development of the desalination project and approximately one mile of water transmission lines within the Coastal Zone conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act as they will not impede any public access to the coast and public recreation opportunities in the area. All public access to the coast and public recreation in the area will not be impeded during the long-term operation of the facility as well as during the construction process with the implementation of conditions of approval and mitigation measures.

The site does not currently provide public access or public recreation opportunities because of the industrial nature of the historic uses at the site. The proposed project is consistent with the Public and Semipublic utility uses for which the site is designated,

and is not suited for public access or recreation purposes for a number of reasons, including concerns about public safety.

The site is located landward of Pacific Coast Highway and would not provide a connection to the coast or public recreation opportunities, as it is virtually surrounded by other industrial uses. Nonetheless, because no public access or recreational opportunities currently exist on the site, the project will not impede existing public access to the coast or public recreation opportunities in the area.

The project will not impact any existing public parking or beach access and will not discourage or impact any existing lower cost visitor and recreational facilities. The project site is currently not accessible to the beach, thus no access will be impacted.

The proposed project will not impede any unique water-oriented activities, nor does it involve any oceanfront land suitable for recreational use. The project involves the use of private lands that are not suitable for visitor-serving commercial recreational facilities. Even if the lands were suitable for such visitor-serving uses, the project proposes a coastal-dependent industry use, which is not of a lower priority than visitor-serving uses.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 02-04/ COASTAL DEVELOPMENT PERMIT NO. 02-05:

1. The site plan received and dated June 1, 2005, floor plans and elevations received and dated April 7, 2003, and March 21, 2005 and landscaping plan received and dated April 23, 2003 shall be the conceptually approved layout with the following modifications:

- a. The landscape area on the east side of the project site (landscape area three) shall include the removal of all Myoporum, and shall be planted with a palette of plants indigenous to the Southern California coastal community.
- b. The architectural treatment proposed on all the tanks shall be limited to the top portion that is visible above the surrounding concrete berm. **(DRB)**
- c. The final fencing and landscaping plan along Edison Avenue shall be subject to approval by the Design Review Board per conditions set by the City Council. **(DRB)**
- d. Perimeter landscaping for this project along Newland St. and Edison Ave. is required to be installed only along the lease area frontage. The lease area shall have a minimum of six percent landscaping of the entire 11-acre lease area.
- e. The landscaping and wall plan shall be consistent in design, colors, and materials with the landscaping and wall plan for AES for a cohesive appearance.
- f. Parking lot striping detail shall comply with Chapter 231 of the Zoning and Subdivision Ordinance and Title 24, California Administrative Code. **(Code Requirement)**
- g. Depict all utility apparatus, such as but not limited to back flow devices and Edison transformers on the site plan. Utility meters shall be screened from view from public

rights-of-way. Electric transformers in a required front or street side yard shall be enclosed in subsurface vaults. Backflow prevention devices shall be prohibited in the front yard setback and shall be screened from view. **(Code Requirement)**

h. All exterior mechanical equipment shall be screened from view on all sides. Rooftop mechanical equipment shall be setback 15 feet from the exterior edges of the building. Equipment to be screened includes, but is not limited to, heating, air conditioning, refrigeration equipment, plumbing lines, ductwork and transformers. Said screening shall be architecturally compatible with the building in terms of materials and colors. If screening is not designed specifically into the building, a rooftop mechanical equipment plan showing screening must be submitted for review and approval with the application for building permit(s). **(Code Requirement) (MM-ALG 1)**

i. Depict the location of all gas meters, water meters, electrical panels, air conditioning units, mailboxes (as approved by the United States Postal Service), and similar items on the site plan and elevations. If located on a building, they shall be architecturally designed into the building to appear as part of the building. They shall be architecturally compatible with the building and non-obtrusive, not interfere with sidewalk areas and comply with required setbacks.

j. If outdoor lighting is included, light intensity shall be limited to that necessary for adequate security and safety. All outside lighting shall be directed to prevent "spillage" towards the sky and onto adjacent properties, including the adjacent wetlands, and shall be shown on the site plan and elevations. **(MM-ALG 2)**

k. The landscaping along the Newland and Edison lease area street frontages shall include the densest type and number of trees to provide the most effective screening possible and shall be maintained to the approval of the City Landscape Architect.

2. Prior to issuance of demolition permits, the following shall be completed:

a. The applicant shall follow all procedural requirements and regulations of the South Coast Air Quality Management District (SCAQMD) and any other local, state, or federal law regarding the removal and disposal of any hazardous material including asbestos, lead, and PCB's. These requirements include but are not limited to: survey, identification of removal methods, containment measures, use and treatment of water, proper truck hauling, disposal procedures, and proper notification to any and all involved agencies.

b. Pursuant to the requirements of the South Coast Air Quality Management District, an asbestos survey shall be completed.

c. The applicant shall complete all Notification requirements of the South Coast Air Quality Management District.

d. The City of Huntington Beach shall receive written verification from the South Coast Air Quality Management District that the Notification procedures have been completed.

e. All asbestos shall be removed from all buildings prior to demolition of any portion of any building.

f. A truck hauling and routing plan for all trucks involved in asbestos removal and demolition of the existing structures shall be submitted to the Department of Public Works and approved by the Director of Public Works.

g. The applicant shall disclose the method of demolition on the demolition permit application for review and approval by the Building and Safety Director.

h. For the demolition of the three (3) 200 foot diameter fuel oil tanks, a work plan must be submitted and approved by the Fire Department prior to commencement of work. **(FD)**

i. In order to minimize potential demolition and construction impacts to nesting savannah sparrows and other threatened or endangered species adjacent to the proposed desalination facility, a pre-demolition nesting survey will be performed by a qualified biologist in consultation with applicable regulatory agencies. Should nesting savannah sparrows or other threatened or endangered species be found, adequate mitigation (such as relocation, construction noise abatement measures, etc.) will be implemented as appropriate based on the findings of the pre-demolition survey.

j. In order to minimize potential construction impacts to nesting savannah sparrows adjacent to the proposed desalination facility, a pre-construction nesting survey will be performed by a qualified biologist in consultation with applicable regulatory agencies. Should nesting savannah sparrows be found, adequate mitigation (such as relocation, construction noise abatement measures, etc.) will be implemented as appropriate based on the findings of the pre-construction survey. **(MM-CON 41)**

3. Prior to acceptance of grading plans for review:

a. Twelve feet (12') of additional right-of-way shall be dedicated in fee along the lease area limits of the Edison Avenue frontage. **(PW)** (General Plan)

b. A 31-foot radius of additional right-of-way shall be dedicated in fee at the southeast corner of Newland Street and Edison Avenue, per City Standard Plan No. 207. (General Plan)

4. Prior to issuance of grading permits, the following shall be completed:

a. The applicant shall submit written proof of final project approval by each applicable regulating agency including but not limited to the California Coastal Commission, Santa Ana Regional Water Quality Control Board, South Coast Air Quality Management District and all applicable water agencies and cities.

b. Block wall/fencing plans (including a site plan, section drawings, and elevations depicting the height and material of all retaining walls and walls) consistent with the grading plan shall be submitted to and approved by the Planning Department. Double walls shall be prohibited. Prior to construction of any new walls, a plan must be submitted identifying the removal of any existing walls next to the new walls, and shall include approval by property owners of adjacent properties. The plans shall identify materials, seep holes and drainage.

- c. Provide a Fire Department approved Remedial Action Plan (RAP) based on requirements found in the City of Huntington Beach Soil Cleanup Standard, City Specification #431-92. **(FD)**
- d. From the Division of Oil, Gas & Geothermal Resources (DOGGR), provide a Permit to Conduct Well Operations for all onsite active/abandoned oil wells. **(FD)**
- e. From the DOGGR, provide proof of a Site Plan Review application. **(FD)**
- f. Obtain a Huntington Beach Fire Department Permit to Abandon Oil Well and follow the requirements of City Specification #422-Oil Well Abandonment Process. **(FD)**
- g. Installation and/or removal of underground flammable or combustible liquid storage tanks (UST) require the applicant to first obtain an approved Orange County Environmental Health Care UST permit/site plan. This approved plan must be presented to obtain the required Huntington Beach Fire Department Fire Code Permit Application to conduct installation and/or removal operations. **(FD)**
- h. For Fire Department approval, applicant must submit a site plan showing all onsite abandoned oil wells accurately located and identified by well name and API number, plus identify and detail all methane safety measures per City Specification #429-Methane District Building Permit Requirements. These details shall be on a separate sheet titled "Methane Plan." **(FD)**
- i. Prior to issuance of any permit, the applicant shall enter into a Franchise agreement with the City for the generation and transport of product water from the site, and through and across the city's streets, rights-of-way or properties which shall incorporate the following: **(PW)** (MC 3.44)
 - 1) Franchise payments would be made to City for use of the street rights-of-way of at least \$100,000 per year adjusted annually based on adjustments in the Consumer Price Index.
 - 2) The applicant will repave the street from curb to centerline along the pipeline route, including striping and marking and raised pavement markers (RPMs) and slurry seal the other side of the centerline or median (with the striping marking and RPM installation) including constructing ADA compliant ramps consistent with State standards in constructing ADA facilities on all four corners of any intersection crossed by the project pipeline. This would include all missing and non-standard ramps along the pipeline route adjacent to where paving or slurry sealing is to be performed.
 - 3) Funds in an amount not to exceed \$1.9 million would be provided to the City which may be used by the City in its sole discretion for improvements adjacent to the site or along the route of the pipeline. If such payment is made through the OPA then this condition will be deemed satisfied.
 - 4) The applicant will provide a performance surety bond and site restoration bond for pipeline construction. City will have the right to review the qualifications of the pipeline contractors prior to selection. Applicant will pay for a full time on-site city construction inspector for the duration of pipeline construction. Applicant will provide a site restoration bond to ensure completion of all project facilities and removal of those facilities in the event of any subsequent condition that prevents operation of the plant.

j. A corrected lease line exhibit for area "1" and the 24-foot wide secondary access easement and an accurate metes and bounds description of the project limits shall be submitted to the Public Works Department for review and approval. A metes and bounds description and separate exhibit of all access routes shall also be provided with the submittal. **(PW)**

k. Irrevocable vehicular access rights shall be established and recorded across the AES and Edison properties. The access width and turning radius criteria shall conform to the requirements of the Public Works Department and the Fire Department. **(PW)**

The legal instrument shall be submitted to the Planning Department a minimum of 30 days prior to building permit issuance. The document shall be approved by the Planning Department and the City Attorney as to form and content and, when approved, shall be recorded in the Office of the County Recorder prior to final building permit approval. A copy of the recorded document shall be filed with the Planning Department for inclusion in the entitlement file prior to final building permit approval. The recorded agreement shall remain in effect in perpetuity, except as modified or rescinded pursuant to the expressed written approval of the City of Huntington Beach. **(Code Requirement)**

l. The applicant shall demonstrate utilizing a truck turning template overlay that a WB-50 vehicle can maneuver on-site through the designated access route. **(PW)**

m. A Grading Plan, prepared by a Licensed Civil Engineer, shall be submitted to the Public Works Department for review and approval. (MC 17.05) The recommendations of the accepted geotechnical study shall be incorporated into the earthwork activities. The Grading Plan shall depict, but not be limited to the following items: **(PW)**

- 1) The parking layout shall be in conformance with the approved parking plan, and shall also conform to City Standards and the City's Subdivision Ordinance and Municipal Code requirements, including Municipal Ordinance No. 10.40.050. No parking shall be permitted adjacent to emergency access areas in compliance with Fire Department Standard Specification Nos. 401 and 415.
- 2) Access for the handicapped shall be in conformance with Title 24.
- 3) Separate sewer lateral and sewer line to provide service to all onsite facilities. The plan shall provide horizontal location and vertical clearances and dimensional relationship with other utilities.
- 4) A new domestic water service and meter shall be installed per Water Division standards, and sized to meet the minimum requirements set by the California Plumbing Code (CPC). The water service shall be a minimum of 2-inches in size.
- 5) Fire sprinklers shall have a separate dedicated fire service with an appropriate backflow device.
- 6) Separate backflow protection devices shall be installed, per Water Division standards for domestic water service, fire services and irrigation water services. The final location for all public waterline facilities shall be as approved by the Water Division.
- 7) Existing mature trees that are to be removed must be replaced at a 2 for 1 ratio with a 36" box tree. Applicant shall provide a consulting arborist report on all the existing trees. Said report shall quantify, identify, size and analyze the health of the existing trees. The report shall also recommend how the existing trees that are to remain (if any) shall be protected and how far construction/grading shall be kept from the trunk.
- 8) Final site design storm hydrology and hydraulics shall be submitted for review and

approval to the Public Works Department. The report shall also include calculation of first flush flows to substantiate the adequacy and effectiveness of all water quality mitigation and structural best management practices. Design of all necessary drainage improvements shall provide mitigation for all rainfall events (storm frequencies up to a 100-year frequency). Mitigation will include adequate detention storage area onsite if the project pump systems fail to operate. The final site design storm hydrology and hydraulics shall be in such a manner that there will be the least possible impact to the adjacent wetlands.

9) Areas for containment shall be provided to mitigate possible spillage of any materials affecting storm water quality that may be stored on-site, and to protect the adjacent wetlands to the maximum extent feasible.

n. Storm Drain, Storm Water Pollution Prevention Plans (SWPPP) and Water Quality Management Plans (WQMP) conforming with the current National Pollution Discharge Elimination System (NPDES) requirements, prepared by a Licensed Civil Engineer, shall be submitted to the Department of Public Works for review and approval. Catch basins shall be grated and not have side openings. (DAMP) **(PW)**

1) A SWPPP shall be prepared and updated as needed during the course of construction to satisfy the requirements of each phase of the development. The plan shall incorporate all necessary Best Management Practices (BMPs) and other City requirements to eliminate polluted runoff until all construction work for the project is completed. The SWPPP shall include treatment and disposal of all de-watering operation flows, and for nuisance flows during construction. (DAMP)

2) The applicant shall demonstrate that coverage has been obtained under California's General Permit for Stormwater Discharges Associated with Construction Activity by providing a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board and a copy of the subsequent notification of the issuance of a Waste Discharge Identification (WDID) Number. (DAMP)

o. A Project WQMP shall be submitted to the Public Works Department for review and approval and shall include the following: **(PW)**

- 1) Discusses regional or watershed programs (if applicable)
- 2) Addresses Site Design BMPs (as applicable) such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas, and conserving natural areas
- 3) Incorporates the applicable Routine Source Control BMPs as defined in the DAMP
- 4) Incorporates Treatment Control BMPs as defined in the DAMP
- 5) Generally describes the long-term operation and maintenance requirements for the Treatment Control BMPs
- 6) Identifies the entity that will be responsible for long-term operation and maintenance of the Treatment Control BMPs
- 7) Describes the mechanism for funding the long-term operation and maintenance of the Treatment Control BMPs
- 8) Includes an Operations and Maintenance (O&M) Plan for all structural BMPs
- 9) Upon approval of the WQMP, three signed copies and an electronic copy on CD (.pdf or .doc format) shall be submitted to the Public Works Department.

p. A Street Improvement Plan, prepared by a Licensed Civil Engineer, shall be submitted to the Public Works Department for review and approval. (ZSO 230.84) The following public improvements shall be shown on the plan: **(PW)**

- 1) Curb, gutter and A.C. paving to the new centerline of construction, plus an adequate feathered overlay section to provide a smooth pavement transition along the Edison Avenue lease frontage, within a 42-foot full-width street Right-of-Way per modified City Standard Plan Nos. 104 and 202 (including an 8-foot parking lane on the north side, 24-foot driving lane, a 6-foot parkway on the north and a 4-foot wide utility easement on the south). No parking shall be permitted on the south side of the street.
- 2) An ADA compliant access ramp at the southeast corner of Newland Street and Edison Avenue per Caltrans Standard Plan No. RSPA88A. The corner curb return radius shall be 35-feet per City Standard Plan No. 207.
- 3) A 25-foot sight triangle must be provided at the intersection of Newland Street and Edison Avenue. (ZSO 230.88)
- 4) New Edison-owned street lighting shall be provided for the frontage of Newland Street and Edison Avenue and shall be consistent with City standards.
- 5) At the intersection of Newland Street and Edison Avenue and at the Newland Street driveway located approximately 460-feet south of Edison Avenue, corner sight distance as defined in the Caltrans Highway Design Manual must be provided.
- 6) All utilities (proposed and existing) shall be shown for reference purposes and shall be consistent with utility infrastructure plans.

q. Improvement Plans for all offsite water transmission lines within the limits of the City of Huntington Beach shall be designed and prepared by a licensed Civil Engineer showing a plan and profile of the improvements. Said plans shall be submitted on mylar sheets to the Public Works Department for review and approval. Trenchless construction methods will be utilized to cross roadways sensitive to traffic disruption and drainage channels as deemed necessary by the Public Works Department. **(PW)**

r. Conflicts between the routing for all offsite water transmission lines and other existing or proposed utilities, facilities or public infrastructure shall be identified and mitigated on the water line improvement plans. **(PW)**

s. Signing and Striping plans prepared by a Licensed Civil or Traffic Engineer shall be submitted to the Public Works Department for review and approval for Newland Street and Edison Avenue. **(PW)** (ZSO 230.84)

t. Traffic Control Plans prepared by a Licensed Civil or Traffic Engineer shall be submitted to the Public Works Department for review and approval for offsite pipeline construction or any other work within the City's right-of-way. **(PW)**

u. If soil remediation is required, a remediation plan shall be submitted to the Planning, Public Works and Fire Departments for review and approval in accordance with City Specifications No. 431-92 and the conditions of approval. The plan shall include methods to minimize remediation-related impacts on the surrounding properties; details on how all drainage associated with the remediation efforts shall be retained on site; details on how no wastes or pollutants shall escape the site; and details on how wind barriers around remediation equipment shall be provided. **(PW)** (MC 17.05.150/FD Spec. 431-92)

v. The name and phone number of an on-site field supervisor hired by the developer shall be submitted to the Departments of Planning and Public Works. In addition, clearly visible signs shall be posted on the perimeter of the site every 250 feet indicating who shall be contacted for information regarding this development and any construction/grading-related concerns. This contact person shall be available immediately to address any concerns or issues raised by adjacent property owners during the construction activity. He/She will be responsible for ensuring compliance with the conditions herein, specifically, grading activities, truck routes, construction hours, noise, etc. Signs shall include the applicant's contact number regarding grading and construction activities, and "1-800-CUTSMOG" in the event there are concerns regarding fugitive dust and compliance with AQMD Rule No. 403. **(PW)**

w. The applicant shall notify all property owners and tenants within 300 feet of the perimeter of the property of a tentative grading schedule at least 30 days prior to such grading. **(PW)**

x. The developer shall coordinate with the Department of Public Works, Traffic Engineering Division in developing a truck and construction vehicle routing plan. This plan shall include the approximate number of truck trips and the proposed truck haul routes. It shall specify the hours in which transport activities can occur and methods to mitigate construction related impacts to adjacent residents and the surrounding area. The plan shall take into consideration any street improvement construction occurring in the vicinity. These plans must be submitted for approval to the Department of Public Works. The applicant shall coordinate all construction traffic related activities with Costa Mesa's Public Services Department. The construction vehicle routing plan in the City of Costa Mesa shall be submitted for approval by the City of Costa Mesa Transportation Services Manager. **(MM-CON 36) (PW)**

y. Should the project require off-site import/export of fill material during demolition, remediation, and construction, trucks shall utilize a route that is least disruptive to sensitive receptors, preferably Newland Street to Pacific Coast Highway to Beach Boulevard to I-405. Construction trucks shall be prohibited from operating on Saturdays, Sundays and federal holidays. **(MM-CON 12)**

z. In conjunction with the submittal of application for a precise grading permit, the applicant shall demonstrate to the satisfaction of the City Engineer that the preliminary geotechnical report recommendations have been incorporated into the grading plan unless otherwise specified in the final geotechnical report and/or by the City Engineer. **(MM-GEO 2)**

aa. As the South Branch Fault (situated beneath the subject site) is classified as "Category C" by the City of Huntington Beach General Plan, special studies and subsurface investigation (including a site specific seismic analysis) shall be performed prior to issuance of a grading permit, to the approval of the City Engineer. The subsurface investigation shall include CPT and exploratory borings to determine the fault rupture potential of the South Branch Fault which underlies the subject site. **(MM-GEO 7)**

bb. Prior to issuance of precise grading or building permits, which ever comes first, the applicant shall submit and obtain approval from the City of Huntington Beach of a Water Quality Management Plan (WQMP) specifically identifying Best Management Practices

(BMPs) that will be used on-site to control predictable pollutant runoff and to protect the adjacent wetlands. This WQMP shall identify, at a minimum, the routine, structural and non-structural measures specified in the Countywide NPDES Drainage Area Management Plan (DAMP) Appendix which details implementation of the BMPs whenever they are applicable to a project, the assignment of long-term maintenance responsibilities to the applicant, and shall reference the location(s) of structural BMPs. The applicable BMPs include: **(MM-HWQ 1)**

- 1) Plant materials that require fertilization and pest control shall be maintained in accordance with Orange County Management Guidelines for Use of Fertilizers and Pesticides; and
- 2) BMP structures and facilities shall be cleaned and maintained on a scheduled basis by a Facility Operator appointed person.
- 3) All fertilizers and pesticides used by the plant shall not pose any harmful effects upon plants, animals, and marine life in the adjacent wetland or to any surrounding properties.

cc. Appropriate site-specific hydrology and hydraulic analysis will be performed for the project prior to the issuance of grading or building permits, whichever comes first. The analysis shall include mitigation measures, if necessary, in regards to storm water drainage and flooding, and to ensure protection of the adjacent wetlands. **(MM-HWQ 2)**

dd. Prior to the issuance of grading or building permits, whichever comes first, an appropriate on-site drainage system shall be installed for the project that integrates permanent stormwater quality features. **(MM-HWQ 3)**

ee. Prior to the issuance of any building or grading permits, the Applicant shall prepare an acoustical analysis report and appropriate plans, prepared under the supervision of a City-approved acoustical consultant, describing the stationary noise generation potential and noise mitigation measures (such as the installation of double walls, sound absorbing materials, acoustic barriers, sound control curtains, and sound baffles), if needed, which shall be included in the plans and specifications of the project. All stationary equipment shall be designed to insure that noise levels at the HBGS property line do not exceed the City's Industrial noise standard of 70.0 dBA and will be subject to the approval of the City of Huntington Beach. **(MM-NO 1)**

ff. Prior to the issuance of a grading permit, the Applicant will prepare a waste reduction plan for the generation of construction and operational waste from the proposed project. This plan will be submitted to the recycling coordinator from the City of Huntington Beach who will ensure that AB 939 requirements are properly addressed. **(MM-PSU 6)**

gg. Concurrent with the submittal of the Grading Plan, the Applicant shall submit an Erosion Control Plan to the City of Huntington Beach Department of Public Works which will include the following measures: **(MM-CON 1)**

- 1) Where necessary, temporary and/or permanent erosion control devices, as approved by the Department of Public Works, shall be employed to control erosion and provide safety during the rainy season from October 15th to April 15th.
- 2) Equipment and workers for emergency work shall be made available at all times during the rainy season. Necessary materials shall be available on-site and stockpiled at convenient locations to facilitate the rapid construction of temporary devices when rain is imminent.

- 3) Erosion control devices shall not be moved or modified without the approval of the Department of Public Works.
- 4) All removable erosion protective devices shall be in place at the end of each working day when the 5-day rain probability forecast exceeds 40%.
- 5) After a rainstorm, all silt and debris shall be removed from streets, check berms and basins.
- 6) Graded areas on the permitted area perimeter must drain away from the face of the slopes at the conclusion of each working day. Drainage is to be directed toward desilting facilities.
- 7) The permittee and contractor shall be responsible and shall take necessary precautions to prevent public trespass onto areas where impounded water creates a hazardous condition.
- 8) The permittee and contractor shall inspect the erosion control work and ensure that the work is in accordance with the approved plans.
- 9) Water shall be applied to the site twice daily during grading operations or as otherwise directed by the City of Huntington Beach Inspector in compliance with South Coast AQMD rule 403 (Fugitive Dust Emissions). A grading operations plan may be required including watering procedures to minimize dust, and equipment procedures to minimize vehicle emissions from grading equipment.
- hh. Construction of the project shall include Best Management Practices (BMPs) as stated in the Drainage Area Management Plan (DAMP) by the Orange County Stormwater Management Program. BMPs applicable to the project include the following: **(MM- CON 2)**
 - 1) Potential pollutants include but are not limited to: solid or liquid chemical spills; wastes from paints, stains, sealants, glues, limes, pesticides, herbicides, wood preservatives and solvents; asbestos fibers, paint flakes, or stucco fragments; fuels, oils, lubricants, and hydraulic, radiator, or battery fluids; fertilizers, vehicle/equipment wash water and concrete wash water; concrete, detergent, or floatable wastes; wastes from any engine/ equipment steam cleanings or chemical degreasing; and superchlorinated potable water line rinsings.
 - 2) During construction, disposal of such materials should occur in a specified and controlled temporary area on-site, physically separated from potential stormwater run-off, with ultimate disposal in accordance with local, state, and federal requirements.
- ii. As part of its compliance with the NPDES requirements, the Applicant shall prepare a Notice of Intent (NOI) to be submitted to the Santa Ana Regional Water Quality Control Board providing notification and intent to comply with the State of California general permit. Prior to construction, completion of a Storm Water Pollution Prevention Plan (SWPPP) will be required for construction activities on-site. A copy of the SWPPP shall be available and implemented at the construction site at all times. **(MM-CON 3)**
- jj. The project shall comply with SCAQMD Rule 402, which prohibits the discharge from a facility of air pollutants that cause injury, detriment, nuisance, or annoyance to the public or that damage business or property. **(MM-CON 9)**
- kk. During clearing, grading, earth moving, or excavation operations, excessive fugitive dust emissions shall be controlled by regular water or other dust preventive measures using the following procedures, as specified in the SCAQMD Rule 403. **(MM-CON 10)**
 - 1) On-site vehicle speed shall be limited to 25 miles per hour.
 - 2) All material excavated or graded would be sufficiently watered to prevent excessive

amounts of dust. Watering would occur at least twice daily with complete coverage, preferable in the late morning and after work is done for the day.

- 3) All material transported on-site or off-site would be either sufficiently watered or securely covered to prevent excessive amounts of dust.
- 4) The area disturbed by clearing, grading, earth moving, or excavation operations would be minimized so as to prevent excessive amounts of dust.
- 5) These control techniques would be indicated in project specifications. Compliance with the measure would be subject to periodic site inspections by the City.
- 6) Visible dust beyond the property line emanating from the project would be prevented to the maximum extent feasible.

ll. Prior to the issuance of any grading permits, the Applicant shall ensure evidence acceptable to the City of Huntington Beach Departments of Planning and Public Works that: **(MM-CON 11)**

- 1) All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with properly operating and maintained mufflers;
- 2) All operations shall comply with the City of Huntington Beach Municipal Code Chapter 8.40 (Noise Control);
- 3) Stockpiling and/or vehicle staging areas shall be located as far as practicable from residential areas and wetlands; and
- 4) Notations in the above format, appropriately numbered and included with other notations on the front sheet of grading plans, will be considered as adequate evidence of compliance with this condition.

mm. Unless underground utility locations are well documented, as determined by the City of Huntington Beach Public Works Department, the project engineer shall perform geophysical surveys to identify subsurface utilities and structures, the findings of which shall be incorporated into site design. Pipelines or conduits which may be encountered within the excavation and graded areas shall either be relocated or be cut and plugged according to the applicable code requirements. **(MM-CON 14)**

nn. An archaeologist and paleontologist shall be selected by the applicant and the City to be available for archaeological and paleontological findings during grading and construction. A qualified representative of the Native American community shall be consulted upon for appropriate Native American findings.

5. Prior to submittal for building permits, the following shall be completed:

a. Zoning entitlement conditions of approval shall be printed verbatim on one of the first three pages of all the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.

b. A corrosion report must be prepared by a qualified person who will determine the suitability of buried pipe and recommend a method to protect buried pipe when corrosive soil is encountered. The recommendations of this report shall be reproduced on the plans. **(BD)**

c. Submit three (3) copies of the site plan and floor plans and the processing fee to the Planning Department for addressing purposes. **(FD)**

d. The Design Review Board shall review and approve the final fencing and landscaping plan along Edison Avenue per conditions set by the Planning Commission. **(DRB)**

e. All Fire Department requirements shall be noted on the building plans. **(FD)**

f. Contact the United States Postal Service for approval of mailbox location(s).

g. A detailed geotechnical report shall be prepared and submitted with the building permit application for the proposed desalination plant. This analysis shall include on-site soil sampling and laboratory testing of materials to provide detailed recommendations regarding grading, foundations, retaining walls, streets, utilities, remedial work, overexcavation / recompaction, dewatering, water quality, and chemical/fill properties of underground items including buried pipe and concrete and protection thereof. The reports shall specifically address lateral spreading, flood control channel bank stability, liquefaction potential and groundwater constraints. Appropriate recommendations shall be provided to mitigate potentially adverse conditions. The geotechnical report shall also be submitted to the Department of Public Works for review and approval in conjunction with the grading plan. **(MM-GEO 1)**

h. A Water Purchase Agreement shall be executed between the applicant/operator of the seawater desalination project and the City of Huntington Beach and shall incorporate the following:

- 1) The City will have the option to purchase up to 3,360 acre-feet per year (3 million gallons per day or 4.6 cubic feet per second) of water from the Project, on a firm basis, at price equal to 95% cost of water supplied by the Municipal Water District of Orange county (MWDOC) and any subsidy received by the Buyer from the Metropolitan Water District of Southern California or any other third party for the purchase of water from the Project. The term of the water supply purchase shall be 30 years with two 30- year extensions at the discretion of the City. Should the plant be unable to deliver these supplies they would be subject to liquidated damages.
- 2) The City will have the first right to purchase up to 11,201 AF per emergency event (i.e. 13cfs or 8.4 mgd) of additional water from the Project in a declared water emergency at the same cost as above for up to seven consecutive days per event.
- 3) The City would be provided a 5 cfs (3.2 mgd) pipeline connection from the Project near the Newland/Edison intersection into city facilities in the area.

i. An Owner Participation Agreement shall be executed between the applicant/operator of the seawater desalination project and the City of Huntington Beach and shall incorporate the following:

- 1) The project developer and any future property owner, public or private, would commit to pay property taxes or an equivalent property tax in-lieu fee to the Redevelopment Agency for a period of thirty (30) years from the issuance by the City of a certificate of occupancy for the desalination facility. The tax or in-lieu fee would be based on the assessed valuation or \$186,500,000 (estimate construction cost) whichever is greater.
- 2) The applicant will provide \$2,000,000 to the City which may be used at its sole discretion for such improvements as the City Council determines will improve the quality of life in the City of Huntington Beach.

6. Prior to issuance of building permits, the following shall be completed:

- a. A separate water meter and backflow prevention device shall be provided for the irrigation system. **(PW)** (ZSO 255.04E)
- b. All landscape planting, irrigation and maintenance shall comply with the City Arboricultural and Landscape Standards and Specifications. A Landscape Construction Set must be submitted to the Department of Public Works and approved by the Departments of Public Works and Planning. The Landscape Construction Set shall include a landscape plan prepared and signed by a State Licensed Landscape Architect which identifies the location, type, size and quantity of all existing plant materials to remain, existing plant materials to be removed and proposed plant materials; an irrigation plan; a grading plan; an approved site plan and a copy of the entitlement conditions of approval. The landscape plans shall be in conformance with Chapter 232 of the Zoning and Subdivision Ordinance and applicable Design Guidelines. Any existing mature trees that must be removed shall be replaced at a two to one ratio (2:1) with minimum 36-inch box trees or palm equivalent (13-14 feet of trunk height for Queen Palms and 8-9 feet of brown trunk) and shall be incorporated into the project's landscape plan. **(PW) (Code Requirement)** (ZSO 232.04B)
- c. A buffer shall be required between the wetland areas and the containment berm, designated as open space, and planted with a palette of plants indigenous to the Southern California coastal community.
- d. The Consulting Arborist (approved by the City Landscape Architect) shall review the final landscape tree planting plan and approve in writing the selection and locations proposed for new trees and the protection measures and locations of existing trees to remain. Existing trees to remain shall also be addressed by said Arborist with recommendations/requirements for protection during construction. Said Arborist report shall be incorporated onto the Landscape Architect's plans as construction notes and/or construction requirements. The report shall include the Arborist's name, certificate number and the Arborist's wet signature on the final plan. **(PW)** (Resolution 4545)
- e. An interim parking and building materials storage plan shall be submitted to the Planning Department to assure adequate parking and restroom facilities are available for employees, customers and contractors during the project's construction phase and that adjacent properties will not be impacted by their location. The plan shall also be reviewed and approved by the Fire Department and Public Works Department. The applicant shall obtain any necessary encroachment permits from the Department of Public Works.
- f. To maintain required emergency access and site safety during project construction phases, submit a Fire Protection Plan in compliance with City Specification #426-Fire Safety Requirements for Construction Sites. **(FD)**
- g. Fire access roads shall be provided in compliance with City Specification #401-Minimum Access for Fire Department Access. **(FD)**
- h. Fire hydrants must be installed and be in service before combustible construction begins. Shop drawings shall be submitted to the Public Works Department and

approved by the Fire Department. Indicate hydrant locations and fire department connections. The Fire Department and the Public Works Water Division shall determine the number of fire hydrants. **(FD)**

i. An automatic fire sprinkler system shall be installed throughout. For Fire Department approval, plans shall be submitted to the Building Department as separate plans for permits. **(FD)**

j. A fire alarm system in compliance with Huntington Beach Fire Code is required. For Fire Department approval, shop drawings shall be submitted to Building as separate plans for permits. The system shall provide water flow, tamper, and trouble alarms, manual pull stations, interior and exterior horns and strobes, voice communication, and 24-hour central station monitoring. **(FD)**

k. Elevators shall be sized to accommodate an ambulance gurney. The minimum dimensions are 6'8" wide by 4'3" deep with a 42-inch wide (min.) right or left side opening. Center opening doors require a 54-inch depth. **(FD)**

l. All Fire Department requirements shall be noted on the building plans. **(FD)**

m. For classification within the City's Hazardous Materials Disclosure Program, a complete chemical inventory and a use, storage, and handling plan prepared by a fire protection engineer, environmental hygienist, or the equivalent shall be submitted to the Fire Department. Included, but not limited to, shall be the ammonia storage tank, the lime silos and the chemical treatment facilities. These tanks and associated equipment shall be designed and installed in conformance with 2001 edition of the CFC. **(FD)**

n. As native on-site soils are compressible upon placement of structural loads, project implementation shall implement complete removal and recompaction of compressible soils or use of piles and grade beams to support on-site structures. **(MM-GEO 4)**

o. Type V cement shall be used for concrete and buried metal pipes shall utilize special measures (coatings, etc.) to protect against the effects of corrosive soils. **(MM-GEO 5)**

p. Due to the potential for ground shaking in a seismic event, the project shall comply with the standards set forth in the UBC (most recent edition) to assure seismic safety to the satisfaction of the Department of Building and Safety prior to issuance of a building permit, including compliance with California Division of Mines and Geology Special Publication 117 (Guidelines for Evaluating and Mitigating Seismic Hazards in California, adopted March 13, 1997). However, given the proximity of the site to the Newport-Inglewood and Compton Blind Thrust Faults, more stringent measures may be warranted. **(MM-GEO 6)**

q. Due to the potential for liquefaction within the project vicinity, the Applicant shall comply with the standards set forth in the UBC (most recent edition) for structures on-site to assure safety of the occupants to the satisfaction of the Department of Building and Safety prior to issuance of a building permit. These standards include compliance with California Division of Mines and Geology Special Publication 117 (Guidelines for Evaluating and Mitigating Seismic Hazards in California, adopted March 13, 1997) and "Recommended Procedures for implementation of CDMG Special Publication 117 -

Guidelines for Analyzing and Mitigating Liquefaction in California" (Dr. Geoffrey R. Martin et al, May 1999). **(MM-GEO 8)**

r. The proposed project shall incorporate adequate measures to stabilize structures from on-site soils known to be prone to liquefaction. Typical methods include, but are not limited to: **(MM-GEO 9)**

- 1) Overexcavation and recompaction of soils;
- 2) in-situ soil densification (such as vibro-flotation or vibro-replacement);
- 3) injection grouting; and
- 4) deep soil mixing.

s. The site specific geotechnical investigation for the proposed project shall analyze the potential for lateral spread on-site. If deemed a possibility, adequate subsurface stabilization practices (similar to those utilized for liquefaction) shall be incorporated prior to the construction of on-site structures. **(MM-GEO 10)**

t. All applicable school mitigation fees shall be paid pursuant to State law. **(MM-PSU 1)**

u. The Applicant will be required to pay five percent of the OCSD connection fee to the City of Huntington Beach. **(MM-PSU 3)**

v. The Applicant will be required to pay appropriate fees for water service connections, installation, and meters. In addition, the City requires payment of a service fee for industrial customers. **(MM-PSU 4)**

w. The Applicant will coordinate with the City's recycling representative to ensure that the proposed project is in compliance with the City's waste reduction and recycling program. **(MM-PSU 5)**

7. The structures cannot be occupied, the final building permits cannot be approved, utilities cannot be released, the use cannot commence, and the Certificate of Occupancy cannot be issued until the following has been completed:

a. Automatic sprinkler systems shall be installed throughout. **(FD)**

b. Backflow protection shall be constructed per the Huntington Beach Water Division Standards Plans for irrigation and fire suppression water services.

c. A fire alarm system will be installed to comply with Huntington Beach Fire Department Code. **(FD)**

d. The applicant shall obtain the necessary permits from the South Coast Air Quality Management District and submit a copy to Planning Department.

e. Compliance with all conditions of approval specified herein shall be accomplished and verified by the Planning Department.

- f. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.
- g. Secured entries shall utilize strobe-switch activated, automated gates and comply with City Specification #403-Fire Access for Pedestrian or Vehicular Security Gates. **(FD)**
- h. Secondary emergency access gates must be secured with KNOX and association (if any) hardware. **(FD)**
- i. Fire extinguishers shall be installed and located in areas to comply with HBFC standards found in City Specification #424-Portable Fire Extinguishers. **(FD)**
- j. Address numbers shall be installed to comply with City Specification #428-Premise Identification. Number sets may be required on front and rear of the structure. **(FD)**
- k. Service roads and fire access lanes, as determined by the Fire Department, shall be posted, marked, and maintained per City Specification #415-Fire Lane Signs. Additionally, the site plan shall show all fire lanes. If prior to approved signage fire lane violations occur and the services of the Fire Department are required, the applicant may be liable for related expenses. **(FD)**
- l. Complete all improvements as shown on the grading and improvement plans. **(PW)** (MC 17.05)
- m. All landscape irrigation and planting installation shall be certified to be in conformance with the City-approved landscape plans by the Landscape Architect of record in written form to the City Landscape Architect prior to the final landscape inspection and approval. **(PW)** (ZSO 232.04D)
- n. Applicant shall provide the City with CD media TIFF images (in City format) and CD (AutoCAD only) copy of complete City approved landscape construction drawings as stamped "Permanent File Copy" prior to starting landscape work. Copies shall be given to the City Landscape Architect for permanent City record. **(PW)**
- o. The applicant shall demonstrate that all measures required by these conditions to protect the adjacent wetlands have been implemented.

8. During demolition, grading, site development, and/or construction, the following shall be adhered to:

- a. Water trucks will be utilized on the site and shall be available to be used throughout the day during site grading to keep the soil damp enough to prevent dust being raised by the operations. **(PW)** (WE-1)
- b. All haul trucks shall arrive at the site no earlier than 8:00 a.m. or leave the site no later than 5:00 p.m., and shall be limited to Monday through Friday only. **(PW)** (MC 17.05)
- c. Wet down the areas that are to be graded or that are being graded, at minimum in the late morning and after work is completed for the day. **(PW)** (WE-1/MC 17.05)

d. The construction disturbance area shall be kept as small as possible and maintained in such a manner that there will be the least possible impact to the adjacent wetland.

(PW) (EC 1)

e. All haul trucks shall be covered prior to leaving the site to prevent dust from impacting the surrounding areas. **(PW)**

f. Prior to leaving the site, all haul trucks shall be washed off on-site on a gravel surface to prevent dirt and dust from leaving the site and impacting public streets. **(PW)**

g. Comply with AQMD Rule 403, particularly to minimize fugitive dust and noise to surrounding areas. **(PW)**

h. Six foot high dust/wind barriers shall be installed along the perimeter of the site. **(PW)**

i. Remediation operations, if required, shall be performed in stages concentrating in single areas at a time to minimize the impact of fugitive dust and noise on the surrounding areas. **(PW)**

j. Comply with the "Water Quality Management Plan" requirements. **(PW)**

k. Construction equipment shall be maintained in peak operating condition to reduce emissions.

l. Use low sulfur (0.5%) diesel fuel by weight in all diesel equipment.

m. Shut off engines when not in use.

n. Attempt to phase and schedule activities to avoid high ozone days first stage smog alerts.

o. Discontinue operation during second stage smog alerts.

p. Ensure clearly visible signs are posted on the perimeter of the site identifying the name and phone number of a field supervisor to contact for information regarding the development and any construction/ grading activity.

q. Compliance with all Huntington Beach Zoning and Subdivision Ordinance and Municipal Code requirements including the Noise Ordinance. All activities including truck deliveries, associated with construction, grading, remodeling, or repair shall be limited to Monday - Saturday 7:00 AM to 6:00 PM. Such activities are prohibited Sundays and Federal holidays. Haul trucks shall comply with condition 8(b). **(Code Requirement)**

r. Discovery of additional contamination/pipelines, etc., must be reported to the Fire Department immediately and the approved work plan modified accordingly. **(FD)**

s. To reduce project-related construction noise impacts generated by the proposed project, the following conditions shall be implemented: **(MM-CON 13)**

1) Construction activities shall be limited to hours specified by the City Noise Ordinance; and

2) Unnecessary idling of internal combustion engines shall be prohibited.

t. During construction, a security fence, the height of which shall be determined by the City of Huntington Beach Department of Building and Safety, shall be installed around the perimeter of the site. The construction site shall be kept clear of all trash, weeds, etc. **(MM-CON 15)**

u. Construction activities, to the extent feasible, shall be concentrated away from adjacent residential areas and wetlands. Equipment storage and soil stockpiling shall be at least 100 feet away from adjacent residential property lines and wetlands. **(MM-CON 16)**

v. Prior to excavation of the contaminated and other areas for rough grading, the project site shall be cleared of all excess vegetation, surface trash, piping, debris and other deleterious materials. These materials shall be removed and disposed of properly (recycled if possible). **(MM-CON 17)**

w. Proper excavation procedures shall be followed to comply with OSHA's Safety and Health Standards. If applicable, the South Coast Air Quality Management District (SCAQMD) Rule 1166 permit shall be obtained prior to the commencement of excavation and remedial activities. **(MM-CON 18)**

x. The contractor shall follow all recommendations contained within the adopted Remedial Action Plan for the project site. **(MM-CON 19)**

y. If asbestos or lead-based paints are identified in any on-site structures, the contractor shall obtain a qualified contractor to survey the project site and assess the potential hazard. The contractor shall contact the SCAQMD and the City of Huntington Beach Departments of Planning and Building and Safety prior to asbestos/lead paint removal. **(MM-CON 20)**

z. If any hazardous materials not previously addressed in the mitigation measures contained herein are identified and/or released to the environment at any point during the site cleanup process, operations in that area shall cease immediately. At the earliest possible time, the contractor shall notify the City of Huntington Beach Fire Department of any such findings. Upon notification of the appropriate agencies, a course of action will be determined subject to the approval of the by the City of Huntington Beach Department of Public Works and Fire Department. **(MM-CON 21)**

aa. All structures must be cleaned of hazardous materials prior to off-site transportation, or hauled off-site as a waste in accordance with applicable regulations. **(MM-CON 22)**

bb. Structure removal operations shall comply with all regulations and standards of the SCAQMD. **(MM-CON 23)**

cc. The contractor shall post signs prior to commencing remediation, alerting the public to the site cleanup operations in progress. The size, wording and placement of these

signs shall be reviewed and approved by the City of Huntington Beach Departments of Planning and Public Works. **(MM-CON 24)**

dd. Any unrecorded or unknown wells uncovered during the excavation or grading process shall be immediately reported to and coordinated with the City of Huntington Beach Fire Department and State Division of Oil, Gas, and Geothermal Resources (DOGGR), and shall meet City Specification 422 - Oil Well Abandonment Permit Process. **(MM-CON 25)**

ee. During remediation, if any soil is found to be hazardous due to contamination other than petroleum hydrocarbons, it will be segregated, stockpiled, and handled separately. **(MM-CON 26)**

ff. Dust and volatile organic emissions from excavation activities shall be controlled through water spray or by employing other approved vapor suppressants including hydromulch spray in accordance with Regional Water Quality Control Board (RWQCB) Waste Discharge Requirements and the South Coast Air Quality Management District (SCAQMD) permit conditions. **(MM-CON 27)**

gg. Prior to initiating the removal of structures and contaminated materials, the contractor must provide evidence that the removal of materials will be subject to a traffic control plan, for review and approval by the by the City of Huntington Beach Department of Public Works. The intent of this measure is to minimize the time period and disruption of heavy duty trucks. For all work done in the City of Costa Mesa, the project applicant shall receive approval from the Costa Mesa Public Services Department. **(MM-CON 32)**

hh. Construction related activities will be subject to, and comply with, standard street use requirements imposed by the City of Huntington Beach, County and other public agencies, including the use of flagmen to assist with haul truck ingress and egress of construction areas and limiting the large size vehicles to off-peak commute traffic periods. For all work done in the City of Costa Mesa, the project applicant shall receive approval from the Costa Mesa Public Services Department. **(MM-CON 33)**

ii. During periods of heavy equipment access or truck hauling, the Contractor will provide construction traffic signage and a construction traffic flagman to control construction and general project traffic at points of ingress and egress and along roadways that require a lane closure. **(MM-CON 35)**

jj. If grading operations uncover paleontological/archeological resources, the applicant shall suspend all development activity to avoid destruction of resources until a determination can be made as to the significance of the paleontological/archeological resources. The archeologist/paleontologist pre-approved by the City shall report such findings to the Planning Department and the pre-approved Native American representative, if applicable. If the paleontological/archeological resources are found to be significant, the City shall determine appropriate actions, in cooperation with the applicant and in consultation with the Native American representative, if applicable, for exploration and salvage.

kk. Excavation for the proposed project shall implement dewatering activities in compliance with NPDES regulations. Pumped groundwater shall be sampled, tested,

and (if deemed necessary) treated prior to discharge. **(MM-GEO 3)**

9. Prior to the excavation process for pipeline construction, the contractor shall coordinate with the County of Orange's Integrated Waste Management Department in order to ensure that proposed pipeline construction does not impact drainage of the former Cannery Street Landfill. **(MM-CON 28)**

10. Methane migration features will be consistent with the requirements of the City of Huntington Beach Specification Number 429 and other applicable state and federal regulations. The methane migration features shall be submitted for review and approval to the Orange County Health Care Agency (OCHCA), Environmental Health Division and the City of Huntington Beach Fire Department. **(MM-CON 29)**

11. Studies to evaluate the potential for landfill gas (LFG) generation and migration will be completed prior to issuance of grading permits. Appropriate mitigation measures will be coordinated with the South Coast Air Quality Management District, Solid Waste Local Enforcement Agency, Regional Water Quality Control Board, and the City of Huntington Beach Fire Department. Mitigation measures could entail active or passive extraction of LFG to control surface and off-site migration and passive barriers with vent layers and alarm systems below trenches and within 1,000 feet of the former Cannery Street Landfill boundary. A comprehensive monitoring network will be established along the pipeline alignment adjacent to the landfill. Approved periodic monitoring of the monitoring network will be performed. **(MM-CON 30)**

12. A Traffic Management Plan (TMP) shall be prepared and implemented to the satisfaction of the affected jurisdiction within which the facilities are to be constructed when the facilities are to be located where construction would affect roadways. The TMP shall include, but not be limited to, the following measures: **(MM-CON 31)**

- a. Limit construction to one side of the road or out of the roadbed where possible;
- b. Provision of continued access to commercial and residential properties adjacent to construction sites;
- c. Provide alternate bicycle routes and pedestrian paths where existing paths/ routes are disrupted by construction activities, if any, and prior to initiating construction, the public shall be notified as to which bicycle routes will be disrupted and when construction will commence;
- d. Submit a truck routing plan, for approval by the City of Huntington Beach, County, and other responsible public agencies in order to minimize impacts from truck traffic during material delivery and disposal;
- e. Prior to any partial or full closure on a street within the city of Costa Mesa's limits, a detour plan shall be submitted to the city for approval by the City Transportation Services Manager. Where construction is proposed for two-lane roadways, confine construction to one-half of the pavement width. Establish one lane of traffic on the other half of the roadway using appropriate construction signage and flagmen;
- f. The TMP shall be approved by affected agencies at least two weeks prior to construction. The applicant shall submit the TMP to Caltrans and the City of Costa Mesa at the 90-percent design phase;
- g. Construction activities shall be coordinated with other construction activity taking place in the affected area(s); and

h. Provide for temporary parking, where necessary, during installation of pipelines within the AES site.

13. The Contractor shall obtain the necessary right-of-way encroachment permits and satisfy all permit requirements. Nighttime construction may be performed in congested areas. Also, any nighttime construction activities shall have prior approval by the City of Huntington Beach Department of Public Works. Any nighttime construction activities in the City of Costa Mesa shall receive approval from the Public Services Director. **(MM-CON 34)**

14. Prior to the commencement of any directional boring for water conveyance pipeline implementation, the applicant shall prepare a Frac-Out Contingency Plan. The plan shall establish criteria under which a bore would be shut down (e.g., loss of pressure, loss of a certain amount of returns) and the number of times a single bore should be allowed to frac-out before the bore is shut down and reevaluated. It will also clearly state what measures will be taken to seal previous frac-outs that have occurred on a given bore to ensure that it does not become the path of least resistance for subsequent frac-outs. Additionally, the site-specific Frac-Out Contingency Plan will be prepared and reviewed by the City Engineer and appropriate resource agencies prior to each major bore. **(MM-CON 41)**

15. The Planning Director ensures that all conditions of approval herein are complied with. The Planning Director shall be notified in writing if any changes to the site plan, elevations and floor plans are proposed as a result of the plan check process. Building permits shall not be issued until the Planning Director has reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action and the conditions herein. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the City Council may be required pursuant to the Huntington Beach Zoning and Subdivision Ordinance.

16. The applicant and applicant's representatives shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.

17. The applicant shall completely remove the storage tanks from the site within 12 months from the date of approval of City building permits and agreements.

18. The applicant/property owner and each successor in interest to the property which is the subject of this project shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

INFORMATION ON SPECIFIC CODE REQUIREMENTS:

1. Conditional Use Permit No. 02-04 and Coastal Development Permit No. 02-05 shall not become effective until the ten calendar day appeal period has elapsed and until the ten working day appeal period has elapsed for Coastal Development Permit. Because

the project is in the **appealable area** of the coastal zone, there is an additional ten working day appeal period that commences when the California Coastal Commission receives the City's notification of final action.

2. Conditional Use Permit No. 02-04 and Coastal Development Permit No. 02-05 shall become null and void unless exercised within one year of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Department a minimum 30 days prior to the expiration date.
3. The City Council reserves the right to revoke Conditional Use Permit No. 02-04 and Coastal Development Permit No. 02-05, pursuant to a public hearing for revocation, if any violation of these conditions or the Huntington Beach Zoning and Subdivision Ordinance or Municipal Code occurs.
4. The development shall comply with all applicable provisions of the Municipal Code, Building Department, and Fire Department as well as applicable local, State and Federal Fire Codes, Ordinances, and standards, except as noted herein.
5. Construction shall be limited to Monday - Saturday 7:00 AM to 6:00 PM. Construction shall be prohibited Sundays and Federal holidays. Haul trucks shall comply with condition 8(b).
6. All applicable fees from the Building, Public Works, and Fire Departments shall be paid prior to the issuance of Building Permits.
7. The applicant shall submit a check in the amount of \$43.00 for the posting of the Notice of Determination at the County of Orange Clerk's Office. The check shall be made out to the County of Orange and submitted to the Planning Department within two (2) days of the City Council's action.
8. A Mitigation Monitoring Fee shall be paid to the Planning Department prior to the issuance of Building Permits.
9. Park Land In-Lieu Fees shall be paid at issuance of building permits.
10. All landscaping shall be maintained in a neat and clean manner, and in conformance with the HBZSO. Prior to removing or replacing any landscaped areas, check with the Departments of Planning and Public Works for Code requirements. Substantial changes may require approval by the City Council.
11. The development shall meet all local and State regulations regarding installation and operation of all underground storage tanks. **(FD)**
12. A Certificate of Occupancy must be approved by the Planning Department and issued by the Building and Safety Department prior to occupying any building.
13. The Water Ordinance #14.52, the "Water Efficient Landscape Requirements" apply for projects with 2500 square feet of landscaping and larger. **(PW)**

14. All existing and new utilities shall be undergrounded. **(PW)**
15. Traffic impact fees for non-residential developments shall be paid at a rate of \$140 per net new added daily trip at the time of final inspection or issuance of a Certificate of Occupancy. This rate is subject to an annual adjustment. **(PW) (MM-PSU 2) (MC 17.65)**
16. An Encroachment Permit is required for all work within the City's right-of-way. **(PW)**
17. The applicant is hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code 66020.
18. The applicant or its successor shall comply with all directives, requirements, orders, or other regulatory requirements of federal, state, and local regulatory agencies having jurisdiction over the adjacent wetlands, whether in the existing degraded conditions or as a restored wetland relative to the desalination plant.
19. The applicant shall produce potable water of quality that is in compliance with all applicable regulatory requirements. In addition, the applicant shall supply Irvine Ranch Water District (IRWD) and any other water agency with water of quality that does not cause the agency to violate the pertinent limits of the agency's reuse permit, applicable to the desalinated water quality at the time the proposed project is ready to begin the supply of desalinated water to water agencies. The applicant shall reach an agreement with the Municipal Water District of Orange County (MWDOC) and its affected member agencies regarding the specific requirements of the quality of the desalinated water prior to beginning construction of the desalination plant. If agreement between the two parties is not reached by then, MWDOC has the right to reject the use of desalinated water.

Adjournment - City Council/Redevelopment Agency

Mayor Sullivan adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach at 12:44 a.m. to Monday, March 6, 2006, at 4:00 p.m., in Room B-8 Civic Center, 2000 Main Street, Huntington Beach, California.

City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach and Clerk of the Redevelopment Agency of the City of Huntington Beach, California

ATTEST:

City Clerk-Clerk

Mayor-Chair