3.3 Biological Resources

3.3.1 Section Summary

This section analyzes whether sensitive biological resources exist within or adjacent to the Project Site. It also assesses whether the West Harbor Modification Project (Proposed Project) would impact sensitive species, particularly marine mammals and water birds. The following discussion also discloses whether the activities described under the Proposed Project would impact sensitive natural communities and marine environments.

Section 3.3, *Biological Resources*, includes the following:

- A description of the environmental setting for sensitive biological resources in the project vicinity, including the results of a biological resources database search and applicable publicly available reports;
- A description of regulations and policies regarding sensitive biological resources that are applicable to the Proposed Project;
- A discussion of the methodology used to determine impacts on sensitive biological resources, including marine mammals, water birds, and sensitive natural communities and marine environments;
- An impact analysis of the Proposed Project; and
- A description of mitigation measures proposed to reduce significant impacts, as applicable.

Key points of Section 3.3, *Biological Resources*, include the following.

- The *2009 San Pedro Waterfront Project (SPW)Environmental Impact Statement (EIS)/Environmental Impact Report (EIR*) (2009 SPW EIS/EIR) determined that sensitive species, particularly marine mammals and water birds, would be affected by the SPW Project; as well as special aquatic habitats and sensitive natural communities. Most construction impacts were considered temporary and less than significant because the majority of potentially affected terrestrial and marine organisms are capable of movement and would be able to avoid construction disturbances. Mitigation Measure **MM-BIO-2** from the 2009 SPW EIS/EIR would apply to the Proposed Project considered under this SEIR to minimize impacts related to nesting birds protected under the MBTA and/or similar provisions of the CFG Code. Mitigation measures **MM-BIO-1** and **MM-BIO-3** through **MM-BIO-6** are not applicable to this SEIR because the Proposed Project does not include in-water construction activities, pile driving, dredging, nor enhancement activities within the Salinas de San Pedro Marsh. The 2009 SPW EIS/EIR also determined that noise and vibration generated from pile driving activities could have a negative impact on marine mammals. Neither construction nor operation of the Proposed Project would involve any in-water or over-water work; thus, this potential impact was not applicable to this SEIR.
- The *2016 Addendum to the San Pedro Waterfront Project Environmental Impact Report for the San Pedro Public Market* (SPPM*) Project* (2016 SPPM Addendum) determined that biological-

resource conditions within the SPW study area have remained relatively the same since the certification of the 2009 SPW EIS/EIR and that the project being analyzed would not result in new significant impacts, substantially increase the severity of a previously analyzed impact, nor require new mitigation measures that were not already addressed in the 2009 SPW EIS/EIR. The addendum concluded that biological-resources impacts resulting from the SPPM Project would be less than significant and that there would be no substantial change from the findings in the 2009 SPW EIS/EIR.

- The Proposed Project has the potential to significantly affect sensitive species, particularly marine mammals and water birds, as a result of noise and trash from concerts at the Amphitheater and fireworks shows during special events. In addition, the 2009 SPW EIS/EIR (Port 2009) concluded that tree-removal activities could have a significant impact if birds are roosting or nesting in the area. Implementation of the existing 2009 SPW EIS/EIR mitigation measure (**MM-**) **BIO-2**, *Conduct Nesting Bird Surveys*, along with new mitigation measures **MM-BIO-7**, *Trash Management and Post-Event Cleanup*; **MM-BIO-8**, *Marine Mammal Monitoring During Firework Events*; **MM-BIO-9**, *California Least Tern Nesting Colony Monitoring During Firework Events*; **MM-BIO-10**, *Biodegradable Venue Products*; and **MM-BIO-11**, *Abandoned Nest Clearance Must Avoid Breeding Bird Season*, would reduce potential impacts to a less-than-significant level.
- The Proposed Project also has the potential to significantly affect sensitive natural communities and marine environments as a result of human-produced trash and debris from events at the Amphitheater and fireworks shows. Implementation of the new mitigation measures **MM-BIO-7**, *Trash Management and Post-Event Cleanup*, and **MM-BIO-10**, *Biodegradable Venue Products*, would reduce potential impacts to a less-than-significant level.

3.3.2 Introduction

This section describes the affected environment and regulatory setting as it relates to biological resources, as well as the impacts on biological resources that would result from the Proposed Project and the mitigation measures that would reduce these impacts.

3.3.3 Environmental Setting

The biological resources present within the Proposed Project area have remained relatively the same since the certification of the 2009 SPW EIS/EIR and 2016 SPPM Addendum (ICF 2016). The environmental setting is summarized here; a detailed description can be found in Section 3.3.2 of the 2009 SPW EIS/EIR. The biological study area (BSA) for the Proposed Project covers both terrestrial and marine resources; for terrestrial resources this includes the Proposed Project limits of disturbance (LOD), plus a 100-foot buffer; for marine resources, the marine assessment area encompasses the southwestern portion of the Los Angeles Harbor, which includes the Main Channel, Outer Harbor, Southern Pacific (SP) Slip, breakwater, Cabrillo Beach, Cabrillo Marina, and Pier 400 (see Figure 3.3-1).

The Proposed Project lies within the Port of Los Angeles (Port) in the San Pedro Bay, on the northern side of the Main Channel in the southwestern corner of the SPPM Area. The Proposed Project LOD, which include the footprints for the Amphitheater, 208 E. 22nd Street Parking Lot, Ferris wheel, and Amusement Attractions, contains terrestrial habitat consisting of developed and vacant land. Land

uses include parking lots, wharves, paved roads, commercial (e.g., fish markets, cruises, whale watching, restaurants), and industrial (e.g., container storage yards, commercial fishing). The LOD would also include the temporary placement of a barge during Proposed Project operations within the Outer Harbor to launch fireworks for the fireworks shows during special events at the Amphitheater; a description of this portion of the LOD is included under the marine environment discussion below.

Elevation within the BSA ranges from approximately sea level to 19 feet above mean sea level. The topography is relatively flat, with graded developed areas surrounding most of the Project Site. One soil series occurs in the BSA: Urban Land (NRCS 2023). Urban soils are often significantly changed from native soil materials as a result of human-transported materials, such as dredge spoils, land filling, land leveling, and surface removal. Extensive dredging of lagoons, marshes, and the ocean floor took place along most of the California coast during the early 1900s, including at San Pedro Bay and the Los Angeles Harbor within the Proposed Project region. Coastal areas were dredged and filled to construct land masses along the California coast for urban development, including ports, highways, industrial areas, and residential areas. Prior to dredging, these areas were alluvial deposits composed of marine sands, organic silts and clays, and fluvial deposits. Within the BSA, Urban land soils occur in filled areas and are composed of human-transported materials that overlay native soils, which are characterized by predominantly younger mixed alluvial deposits, including fine and coarse loam, which are well-drained to excessively drained. Urban land soils have a lot of variation with no consistent stratification pattern and often have poor drainage and contain impervious surfaces.

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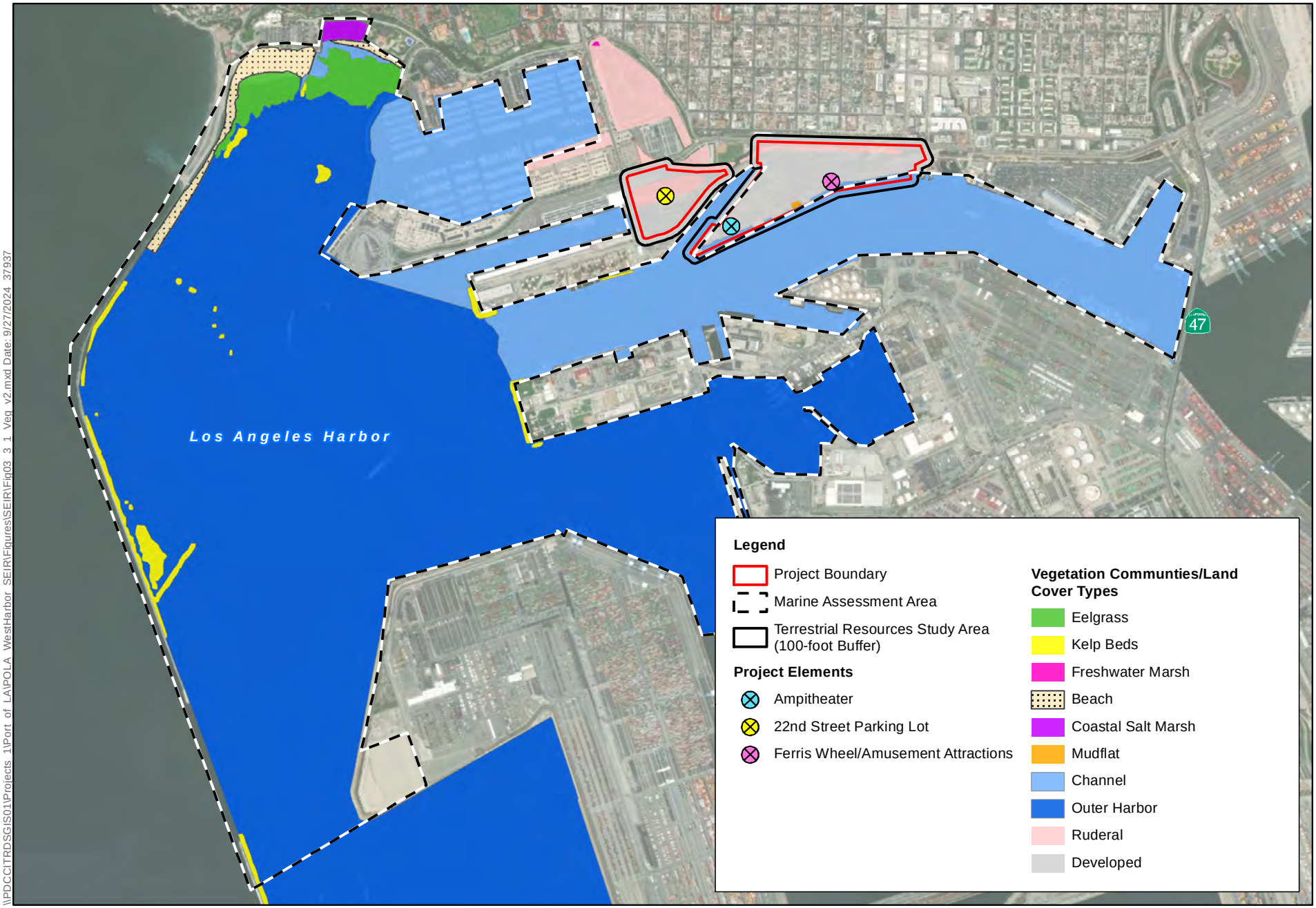

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Source: ESRI World Imagery (2022)

N

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Feet

Vegetation community layers are based on the 2009 San Pedro Waterfront Project Environmental Impact Statement/Environmental Impact Report.

Figure 3.3-1
Vegetation Communities/Land Cover Types
West Harbor Modification Project

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No native habitat is present within the LOD. Vegetation is primarily limited to street trees and other landscaping, as well as vacant lands containing ruderal vegetation. Within the BSA, all uplands have been heavily modified and/or developed. Vacant lands have experienced long-term human-made disturbances, including mechanical soil disturbance, soil deposition, soil compaction, and gravel and/or asphalt/concrete deposition, and are dominated by nonnative weedy vegetation. Therefore, they are of marginal quality and provide minimal habitat value to native plant and wildlife species. Any wildlife species having a potential to occur and/or are known to occur within the BSA are adapted to human-disturbed landscapes, such as rock pigeon (*Columba livia*), mourning dove (*Zenaida macroura*), American crow (*Corvus brachyrhynchos*), common raven (*C. corax*), European starling (*Sturnus vulgaris*), yellow-rumped warbler (*Dendroica coronata*), Brewer's blackbird (*Euphagus cyanocephalus*), house finch (*Carpodacus mexicanus*), rough-winged swallow (*Stelgidopteryx serripennis*), cliff swallow (*Petrochelidon pyrrhonota*), barn swallow (*Hirundo rustica*), killdeer (*Charadrius vociferous*), house sparrow (*Passer domesticus*), Norway rat (*Rattus norvegicus*), black rat (*R. rattus*), house mouse (*Mus musculus*), Virginia opossum (*Didelphis virginiana*), common raccoon (*Procyon lotor*), and Botta's pocket gopher (*Thomomys bottae*).

Two areas of vacant lands occur within the BSA: one is an open lot located at the northwestern corner of Harbor Boulevard and 22nd Street; and the other is a mudflat at Berth 78–Ports O'Call (Figure 3.3-1). The open lot at 208 E. 22nd Street, which is adjacent to a parking lot and surrounded by development, is composed of compacted soils with a thin layer of gravel. Vegetation is sparse and consists of ruderal vegetation, such as flax-leaved horseweed (*Conyza bonariensis*), Russian thistle (*Salsola tragus*), cheeseweed (*Malva parviflora*), Spanish brome (*Bromus madritensis*), and rip-gut brome (*B. diandrus*). Surveys performed for the 2009 SPW EIS/EIR detected Botta's pocket gopher and killdeer at this location, and it was determined that, based on the conditions at the site, this lot provides very little habitat value.

The mudflat is a small (i.e., 0.175-acre) area at Berth 78–Ports O' Call that is essentially a low, flat area landward of shoreline-protection rock that is intermittently submerged from tidal action and supports intertidal benthic species. The mudflat was created at the time of development of the adjacent fish retail market deck that extends over the intertidal area. This area is protected from wave action and as a result is a depositional area for fine sediment. The mudflat is considered a depleted natural community with respect to number and extent, as well as value for habitat. Small polychaete and oligochaete worms, peracarid crustaceans, and insects are common within unvegetated mudflat habitats. These invertebrate species serve as prey for shorebirds that forage at the mudflats within the Proposed Project area.

The Los Angeles Harbor (Harbor) is part of the Dominguez Watershed, which receives stormwater input from approximately 80 square miles in and around the Port. No freshwater aquatic resources are present within the BSA. The LOD is located along the Main Channel of the Harbor, approximately 0.6 mile north of the mouth of the channel.

The Harbor is a marine environment, which provides habitat to a variety of aquatic species. It is located in the Outer Harbor within the deepwater areas of the water column (see Figure 3.3-3 of the 2009 SPW EIS/EIR). The Main Channel portions of the BSA contain mid-channel habitat, which includes deepwater areas, and pier and piling habitat along the edges of the Harbor channel. The portion of the Harbor within the BSA is tidal open water habitat that is somewhat protected from wave action, but subject to frequent boat and shipping traffic.

The Harbor supports marine resources, such as marine fish, birds, and the marine food chains that support these species (e.g., invertebrate community, marine algae). The protected environment and higher temperatures give the Harbor value as a nursery area for juvenile fish and provide a diversity of habitat that contrasts with exposed coastal habitat. Harbor marine habitat includes rearing habitat for both pelagic (i.e., open ocean) and demersal (i.e., bottom) marine species. Algal diversity is typically much higher in the Outer Harbor along the breakwaters (which occurs outside of the Proposed Project BSA).

The Harbor provides valuable foraging, nesting, and roosting habitats for a diverse group of water birds, including gulls, terns, black skimmer (*Rynchops niger*), California brown pelican (*Pelecanus occidentalis californicus*), and waterfowl. Habitat types to support water birds within the Harbor include open water, riprap, dock/pilings, and boat/barges. Two species of water birds have been observed nesting within the Harbor: black-crowned night heron (*Nycticorax nycticorax*) have nested in trees near the Berth 78–Ports O'Call within the Proposed Project BSA; and great blue heron (*Ardea herodias*) have nested in light stands at Berths 49–51 and at Reservation Point outside of the Proposed Project BSA.

Two sensitive avian species, California brown pelican (California Fish and Game Code [CFG Code] fully protected) and California least tern (*Sternula antillarum brownii*) (federally and state-listed as Endangered), commonly occur within the Harbor. California brown pelican forages throughout the Harbor, including the Main Channel, and often rests on pilings, boat floats, and floating and fixed docks. California least tern forages primarily within the shallow-water portions of the Harbor, located outside of the Proposed Project BSA, although it may also occasionally forage within the Main Channel. It nests within the Harbor on a 15-acre managed site designated as a significant ecological area at Pier 400, approximately 1.7 miles southeast of the Project Site.

The Harbor also provides habitat for marine mammals, particularly California sea lion (*Zalophus californianus*), which occur within the Harbor throughout the year foraging or resting on buoys, docks, and the breakwaters of the Outer Harbor. Harbor seals (*Phoca vitulina*) are less common than sea lions, but individuals can be found sporadically throughout the year, either foraging within the Harbor or resting along riprap shorelines, oftentimes near the Outer Harbor. Common locations where these species are found are the Bait Barge Area near the Outer Harbor, and the shipyard at Pier 400, which is not in the Project Site. Occasional observations of dolphins occur within the Harbor (e.g., Pacific bottle-nose dolphin [*Tursiops truncates*], common dolphin [*Delphinus delphis*], Pacific white-sided dolphin [*Lagenorhynchus obliquidens*], Risso's dolphin [*Grampus griseus*]), with only rare sightings of whales reported (e.g., gray whale [*Eschrichtius robustus*]).

3.3.4 Regulatory Setting

This section provides summary background information regarding the applicable regulations for protecting biological resources within the Proposed Project area.

3.3.4.1 Federal Regulations

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) makes it unlawful at any time, by any means, or in any manner to pursue, hunt, take, capture, or kill migratory birds. The law applies to the removal of nests and the abandonment of nests occupied by migratory birds during the breeding season.

Federal Endangered Species Act

The federal Endangered Species Act (FESA) provides guidance for the conservation of Endangered and Threatened species and the ecosystems on which they depend. Section 7 of FESA requires federal agencies, in consultation with and with assistance from the Secretary of the Interior, to ensure that the actions that they authorize, fund, or carry out are not likely to jeopardize the continued existence of Threatened or Endangered species or result in the destruction or adverse modifications of Critical Habitat for these species.

Executive Order 13112 Invasive Species

Executive Order 13112 requires federal agencies to combat the introduction or spread of invasive species in the United States. Federal Highway Administration guidance issued on August 10, 1999, directs the use of a state noxious weed list to identify invasive plants that must be considered as part of the National Environmental Policy Act (NEPA) analysis for a proposed project (FHWA 1999). Under the Executive Order, federal agencies cannot authorize, fund, or carry out actions that are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless all reasonable measures to minimize risk of harm have been analyzed and considered.

Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act of 1976 (Magnuson-Stevens Act) was established to conserve and manage fishery resources found off the coast, as well as anadromous species and continental-shelf fishery resources of the United States, by exercising (a) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983; and (b) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species, continental-shelf fishery resources, and fishery resources in special areas.

The Magnuson-Stevens Act requires that all federal agencies consult with the National Marine Fisheries Service (NMFS) regarding all actions or proposed actions permitted, funded, or undertaken that may adversely affect essential fish habitat (EFH). EFH is defined as "those waters and substrates necessary to fish for spawning, breeding, feeding, or growth to maturity" (16 U.S.C. § 1802(10)). The legislation states that migratory routes to and from anadromous fish–spawning grounds are considered EFH. The phrase *adversely affect* refers to the creation of any effect that reduces the quality or quantity of EFH. Federal activities that occur outside EFH, but may nonetheless have an effect on EFH waters and substrate, must also be considered in the consultation process.

Under the Magnuson-Stevens Act, effects on habitat managed under the *Pacific Coast Salmon Fishery Management Plan* (PFMC 2022) must also be considered. The Magnuson-Stevens Act states

that consultation regarding EFH should be consolidated, where appropriate, with the interagency consultation, coordination, and environmental-review procedures required by other federal statutes, such as NEPA, the Fish and Wildlife Coordination Act, federal Clean Water Act, and FESA. EFH consultation requirements can be satisfied through concurrent environmental compliance if the lead agency provides NMFS with timely notification of actions that may adversely affect EFH and the notification meets requirements for EFH assessments.

Marine Mammal Protection Act

The Marine Mammal Protection Act (MMPA) protects all marine mammals within the United States and prohibits harassment, feeding, capture, collection, or killing of any marine mammals without a permit. The MMPA is managed by the federal government. NMFS is responsible for managing cetaceans, otariids, and phocids. The U.S. Fish and Wildlife Service (USFWS) is responsible for managing odobenids, sirenians, otters, and polar bears.

3.3.4.2 State Regulations

California Fish and Game Code, Sections 1600–1616

Under the current CFG Code, Sections 1600–1616, the California Department of Fish and Wildlife (CDFW) has authority to regulate work that would substantially divert or obstruct the natural flow—or substantially change or use any material from the bed, channel, or bank—of any river, stream, or lake. This regulation takes the form of a requirement for a Lake or Streambed Alteration Agreement (LSAA) and is applicable to all projects involving state- or local-government discretionary approvals.

California Endangered Species Act

The California Endangered Species Act (CESA) established the state's policy to conserve, protect, restore, and enhance Threatened or Endangered species and their habitats. CESA mandates that state agencies must not approve projects that would jeopardize the continued existences of Threatened or Endangered species if reasonable and prudent alternatives are available that would avoid jeopardy. There are no state agency consultation procedures under CESA. For projects that affect both a federally and state-listed species, compliance with FESA would satisfy CESA if CDFW determines that the federal incidental take authorization is consistent with CESA under CFG Code Section 2080.1. For projects that would result in take of a state-only listed species, a take permit under Section 2081(b) must be obtained.

California Fish and Game Code, Sections 3503, 3503.5, 3505, 3511, 3800, and 3801.6

CFG Code Sections 3503, 3503.5, 3505, 3800, and 3801.6 protect native birds, birds of prey, and nongame birds, including eggs and nests, which occur naturally in the state and are not already listed as Fully Protected. Section 3511 calls out specific species as Fully Protected, such as California brown pelican.

California Environmental Quality Act

CEQA establishes a state policy for preventing significant, avoidable damage to the environment by requiring changes to projects through the use of alternatives or mitigation measures. CEQA applies to actions that are directly undertaken, financed, or permitted by state lead agencies. Regulations for implementation are found in the CEQA Guidelines published by the state resources agency (i.e., Office of the Secretary).

California Coastal Act

The California Coastal Act (CCA) of 1976 recognizes the Port, as well as other California ports, as primary economic and coastal resources and essential elements of the national maritime industry. Decisions to undertake specific development projects, where feasible, are to be based on consideration of alternative locations and designs in order to minimize any adverse environmental impacts.

Under the CCA, water areas may be diked, filled, or dredged when consistent with a certified port master plan only for specific purposes, including the following.

- Construction, deepening, widening, lengthening, or maintenance of ship channel approaches, ship channels, turning basins, berthing areas, and facilities that are required for the safety and the accommodation of commerce and vessels to be served by port facilities; and
- New or expanded facilities or waterfront land for port-related facilities.

The CCA also encourages the protection and expansion of facilities for the commercial-fishing industry, water-oriented recreation, and recreational-boating interests. Marine resources are to be maintained, enhanced, and where feasible, restored. The biological productivity and the quality of coastal waters appropriate to maintain optimum populations of marine organisms, and for the protection of human health, are to be maintained. Protection against the spillage of hazardous substances and effective containment and cleanup facilities and procedures are to be provided.

Under the CCA, the Los Angeles Harbor Department (LAHD) has developed for California Coastal Commission (CCC) certification the *Port Master Plan* (PMP) (Port 2013), which addresses environmental, recreational, economic, and cargo-related concerns of the Port and surrounding regions. The Proposed Project would necessitate a Coastal Development Permit.

Environmentally Sensitive Habitat Areas

CCA Section 30240 provides protections for Environmentally Sensitive Habitat Areas (ESHAs), defined as any area in which plant or animal life or their habitats are either rare or especially valuable due to their special natures or roles in an ecosystem and which could be easily disturbed or degraded by human activities and developments. The CCA requires that such areas be protected and that development project within or adjacent to such areas be planned and sited to prevent degradation of ESHAs.

Coastal Zone Management Act

Section 307 of the Coastal Zone Management Act requires that all federal agencies with activities directly affecting the coastal zone, or with development projects within that zone, comply with the

state coastal acts (in this case, the CCA) to ensure that those activities or projects are consistent to the maximum extent practicable. The CCC review for the Coastal Development Permit (mentioned above under the CCA) would include a federal consistency determination.

3.3.4.3 Local Regulations and Guidelines

Los Angeles Waterfront Guidelines

The *San Pedro Waterfront and Promenade Design Guidelines* were developed as part of the 2009 SPW EIS/EIR to provide the framework for projects that would be constructed along the Port's waterfront. The guidelines were updated in 2014 and renamed the *L.A. Waterfront Design Guidelines* (Port 2014). The design guidelines are intentionally broad, allowing designers to have creative latitude, while establishing a desired unified character and level of quality for the waterfront.

Relevant guidelines that address biological resources include the following.

- Landscape Elements and Plant Materials
    - Native, naturalized, robust plants should be selected, and all species selected should be researched to ensure that they are not designated as invasive in the state of California.
    - Plant palettes should focus on increasing biodiversity and reducing water and fertilizer usage, as well as maintenance needs. A combination of California native plants and Mediterranean climate–adapted plants are acceptable choices.
    - Canopy trees should be used to create shade for pedestrians on sidewalks and in seating and gathering areas.
    - Plant trees no smaller than 24-inch box size, in general. On streets and in areas where shade is desired, plant larger sizes to provide shade faster. Select tree species with long lifespans.
    - No planting material should be used that is classified as a California State Noxious Weed, so as not to pose an invasive threat.
    - Select plants that can be maintained in their natural forms to reduce required trimming, energy use, and green waste.
    - Select shrubs and groundcovers that can serve as wildlife habitat, encouraging the presence of migratory birds, butterflies, and other species.
    - California native or compatible plant species should be used, where possible.
- Lighting Guidelines
    - All fixtures should be arranged and screened to reflect light away from adjacent properties.
    - Glare and light trespass should be mitigated through the provision of louvers and shields.
- Sustainability Guidelines
    - Where possible, preserve and protect existing waterways, wetlands, and vegetation. These natural drainage features define the character of a site and act as natural stormwater-management measures. Rehabilitate functions and values of any streams, wetlands, or shorelines that have been artificially modified through techniques such as daylighting.

- Where possible, preserve natural drainage patterns and topography and use them to inform design.
- Select native plant materials for bioswales and other stormwater cleansing that are based on filtration qualities, adaptability, and the context of the surrounding landscape.
- Create microhabitat to encourage the formation of a crust of filter-feeding marine organisms that function as a living water-filtration system. This can be accomplished with cavities or crevices that retain water during low tides, the use of rough-textured and porous surfaces, such as mussel, oyster, and clam shells, which facilitate the attachment of organisms, and/or integrated ecosystem-enhancing treatments, such as oyster baskets.
- Consult with natural-resource experts before and during design and construction to avoid causing damage to sensitive habitat areas and native populations of flora and fauna.
- Where erosion is an issue, use bioengineering methods, such as planting a riparian buffer, rather than employing hard reinforcements, such as concrete, because these materials may cause further erosion and undercutting.
- Docks should not bisect habitat corridors. Concrete structures should be designed with gaps, tubes, or cleavage to allow movement of animals and growth of plants in a continuum.
- Safety tips should be posted to avoid damage to local ecology as well as tidal information.

City of Los Angeles Waste Reduction Ordinances

Event organizers must comply with City Ordinance No. 187030, *Disposable Foodware Accessories and Plastic Drinking Straws*, its Comprehensive Plastics Reduction Program, and the City of LAHD Zero Waste Plan, which incorporates Ordinance 187718 (*Zero Waste at City Facilities and Events on City Property*; City of Los Angeles 2024). Ordinance 187718 contains extensive provisions including, but not limited to, the ban of single-use plastics and expanded polystyrene (EPS) foam (or Styrofoam™) and the reduction of disposable food ware and accessories.

General NPDES Permit NO. CAG994007

A fireworks discharger is required to comply with the requirements specified in National Pollutant Discharge Elimination System (NPDES) General Permit No. CAG994007 (California Regional Water Quality Control Board [RWQCB], Los Angeles Region; Order No. R4-2023-0180; adopted May 25, 2023), unless a new permit amendment is obtained that has new measures. The discharger must obtain coverage under this Order prior to the fireworks show by submitting a Notice of Intent to the Los Angeles Water Board at least 45 days before commencement of the fireworks show, in accordance with the requirements of Part II.D of the Order, and must be issued a Notice of Applicability by the Executive Officer, which may include specific conditions that may be necessary to be in compliance with the Order. As a part of the Notice of Intent, the discharger will create a Best Management Practices (BMP) Plan, as described in Provision VII.B of the Order. BMP Plan minimum requirements are included in the permit, which is provided in Appendix D-2 of this Subsequent Environmental Impact Report (SEIR).

3.3.5 Prior Mitigation Measures Applicable to the Proposed Project

The 2009 SPW EIS/EIR concluded that impacts on sensitive species and sensitive natural communities would be significant as a result of project implementation, particularly from in-water construction activities, pile driving, dredging, and enhancement activities within the Salinas de San Pedro Marsh. Several mitigation measures were included to reduce potential impacts to less-than-significant levels.

Existing mitigation measure **MM-BIO-2**, *Conduct Nesting Bird Surveys*, from the 2009 SPW EIS/EIR would apply to the Proposed Project considered under this SEIR to minimize impacts related to nesting birds protected under the MBTA and/or similar provisions of the CFG Code. Existing 2009 SPW EIS/EIR mitigation measures **MM-BIO-1**, *Monitor and Manage Turbidity*, **MM-BIO-3**, *Avoid Marine Mammals*, **MM-BIO-4**, *Enhance and Expand Salinas de San Pedro Salt Marsh*, **MM-BIO-5**, *Prepare a Habitat Mitigation and Monitoring Plan*, and **MM-BIO-6**, *Dispose Sediment*, are not applicable to this SEIR because the Proposed Project does not include any in-water construction activities, pile driving, dredging, nor enhancement activities within the Salinas de San Pedro Marsh.

> **MM-BIO-2**: **Conduct Nesting Bird Surveys.**
>
> This measure applies if construction is to occur between February 15 and September 1. Prior to ground-disturbing activities, a qualified biologist will conduct surveys for the presence of black-crowned night herons, blue herons, and other nesting birds within Berth 78–Ports O'Call or other appropriate and known locations within the BSA that contain potential nesting bird habitat. Surveys will be conducted 24 hours prior to ground disturbance and/or the clearing, removal, or grubbing of any vegetation. If active nests of species protected under the MBTA and/or similar provisions of the CFG Code (i.e., native birds including, but not limited to the black-crowned night heron) are located, then a barrier installed at a 50–100 foot radius from the nest(s) will be established and the tree/location containing the nest will be marked and will remain in place and undisturbed until a qualified biologist performs a survey to determine that the young have fledged or the nest is no longer active.

3.3.6 Methodology

The baseline for biological resources includes the Approved Project, as defined in the certified 2009 SPW EIS/EIR and the updates included in the 2016 SPPM Addendum. Within the context of the baseline, the following section provides a qualitative discussion of the potential impacts involving biological resources that could result from the Proposed Project.

The Initial Study (IS)/Environmental Checklist (Appendix A of this Draft SEIR) determined that the Proposed Project would have no impact on federally or state-protected wetlands (Threshold 4c; see Section 3.3.7, *Thresholds of Significance*, of this SEIR), local policies or ordinances protecting biological resources (Threshold 4e), or conservation plans (Threshold 4f). Additionally, the IS found that the Proposed Project would have a less than significant impact on native wildlife nursery sites (Threshold 4d). Because these issues were determined to have no impact or less-than-significant impacts, and these determinations are still valid with the Proposed Project, Thresholds 4c, 4d, 4e, and 4f will not be addressed further in this SEIR.

Although the IS found that the Proposed Project would have no impact on any riparian habitats or sensitive natural communities (Threshold 4b), this topic will be further evaluated in this SEIR because of potential impacts on the mudflat located within the Proposed Project BSA, at Berth 78–Ports O'Call, which is considered a depleted natural community and a U.S. Army Corps of Engineers special aquatic site. It was determined that debris from venues at the Amphitheater and fireworks shows could affect sensitive marine habitats, in addition to the mudflat; this issue is analyzed further in subsequent sections. The Proposed Project was determined to have the potential to have an adverse effect on species identified as a Candidate, Sensitive, or Special-Status Species in local or regional plans, policies, or regulations or by the CDFW or USFWS (Threshold 4a); therefore, this issue is analyzed further in the subsequent sections.

Sensitive biological resources potentially occurring within the BSA were investigated through desktop analysis. A literature review was conducted to evaluate the environmental setting of the Proposed Project and identify sensitive biological resources that may be found on or near the BSA; for terrestrial resourcesn this includes the Proposed Project LOD, plus a 100-foot buffer, and for marine resources, the marine assessment area encompassed the southwestern portion of the Los Angeles Harbor, which included the Main Channel, Outer Harbor, SP Slip, breakwater, Cabrillo Beach, Cabrillo Marina, and Pier 400. The search included the USFWS mapping of designated Critical Habitat (USFWS 2023a) and generation of an unofficial species list through the USFWS Information for Planning and Consultation database (USFWS 2023b). A review of the NMFS EFH Mapper identified the presence or absence of EFH (NMFS 2023a), and a search of the NMFS West Coast Region Species List (NMFS 2023b) provided an informal list of NMFS-protected aquatic species that could be present within the general vicinity of the Proposed Project. Finally, the California Natural Diversity Database (CNDDB) (CDFW 2023a) and the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants (CNPS 2023) were reviewed for the U.S. Geological Survey (USGS) 7.5-minute Proposed Project quadrangle (i.e., San Pedro) and surrounding quadrangles (i.e., Redondo Beach, Torrance, and Long Beach) (USGS 1964).

Also reviewed were current biological studies in the region, previous environmental documents for the Proposed Project, and environmental documents from similar types of projects, including the *2018 Biological Surveys for the Los Angeles and Long Beach Harbors* (2018 Biological Surveys) (Wood 2021), 2009 SPW EIS/EIR, 2016 SPW Addendum, and *San Diego Bay and Imperial Beach Oceanfront Fireworks Display Events Project EIR* (San Diego Unified Port District 2017). Additionally, older reports provide information that was useful in describing trends in environmental conditions that have affected the biological communities in the Proposed Project area (HEP 1976). The biological resources of the Los Angeles Harbor have been studied substantially and reported in the form of project EIRs and/or EISs (Jones & Stokes 2002; e2M Inc 2003; and USACE and LAHD 1992) and Harbor-wide biological surveys prepared for the Ports of Los Angeles and Long Beach (MEC 1988, 2002; SAIC 2010; and MBC 2016). These documents also were reviewed and used to assess existing site conditons in the Proposed Project BSA and surrounding Proposed Project region.

Because the Project Site is located directly along the Harbor, and Proposed Project operation would include fireworks being launched from a barge just south of Cabrillo Marina in the Outer Harbor, both terrestrial and marine environments were analyzed in this SEIR. In this document, *terrestrial* is defined as land that lies outside of tidal influence, thus capturing uplands, but also encompassing lands that may have freshwater influences.

The potential for terrestrial lands and marine environments within the BSA to support special-status plant and animal species was assessed via desktop analysis to identify possible Proposed Project impacts on those species. The current biological setting was primarily based on conditions reported in the 2009 SPW EIS/EIR, 2016 SPPM Addendum, 2018 Biological Surveys (Wood 2021), and the other environmental documents listed above. Other resources reviewed included Google Earth aerials and photos (Google Earth 2023), records of occurrence (Calflora 2023; CDFW 2023a; eBird 2023; USFWS 2021; Xerces 2023a, 2023b), Natural Resources Conservation Service soil mapping (NRCS 2023), and USGS topographic maps (USGS 1964). Vegetation communities, land-cover types, water bodies, soils, and records of occurrence within the BSA were considered when determining potentially suitable habitat to support special-status species and the potential of individual special-status species to occur in the BSA.

Permanent and temporary direct and indirect impacts that could affect senstive biological resources with a potetial to occur within the BSA were assessed. *Permanent impacts* include construction activities that may have permanent effects on biological resources, such as the reduction or removal of suitable habitat, grading and soil disturbance, and mortality of plants or wildlife. *Temporary impacts* are those that are temporary in nature and whose effects would cease following the completion of construction, such as noise and vibration disturbances, equipment staging, and temporary clearing of vegetation that would be replaced in-kind once the Proposed Project is complete. *Direct effects* are permanent or temporary impacts that could directly cause mortality or a permanent loss of habitat, and *indirect effects* are impacts that may give rise to delayed secondary effects, including a potential spread of invasive plants, increased dust during construction, and the degradation of habitat adjacent to the work area. Operation of the Proposed Project may contribute to long-term indirect effects and contribute to edge effects through noise disturbances and litter debris from concerts and fireworks shows.

3.3.6.1 Amphitheater and Fireworks Noise Analysis

To assess potential operational noise-related impacts on marine mammals from concerts at the Amphitheater and fireworks shows, a noise analysis was performed. Noise from the Amphitheater was analyzed using computer noise modeling, as described in Section 3.8, *Noise*, and the supporting focused technical study, *Music Performance Community Noise Level Estimation and Assessment* (Acoustics Lab 2022), attached as Appendix D to this SEIR. Fireworks noise levels were estimated, as described in Section 3.8, *Noise*, using measured noise data from the *San Diego Bay and Imperial Beach Oceanfront Fireworks Display Events Project EIR* (ICF 2017), with additional calculations to adjust for the anticipated fireworks display intensity (i.e., pounds of fireworks launched per minute) and duration. Based on marine-mammal acoustic technical guidance provided by NMFS (NMFS 2023c), noise levels for the assessment of potential impacts on marine mammals were calculated using unweighted or "flat" decibels (dBs); this means a flat-frequency response is used without any frequency-weighting adjustments (e.g., A-weighted decibels [dBA]). Refer to Section 3.8.3.1, *Noise Fundamentals*, for additional information about dBs. Flat dBs are abbreviated dBZ to distinguish them from other types of dB, such as the dBA used in the assessment of noise impacts on humans.

Eight receiver points were identified for analysis of potential noise impacts on marine mammals known to utilize the Harbor. Receiver points were located in areas where marine mammals have a high potential for being located out of the water (i.e., known haul-out locations) and at a range of distances from the proposed firework launch location. Based on standard geometric spreading of

sound, noise levels attenuate (reduce) at a rate of 6 dB per doubling of distance from the source (Amphitheater or fireworks launch location), excluding any excess sound attenuation from other effects such as ground absorption, shielding, or atmospheric effects. The receiver points used in the noise analysis for marine mammals are shown on Figure 3.3-2.

The predicted average noise level (L_{eq} dBZ) at the center of each receiver point was calculated for noise generated from both the Amphitheater and proposed firework launch locations. The modeling for Amphitheater noise examined the range of noise levels that could reasonably be expected, based on the anticipated sound-system design and the range of anticipated atmospheric/weather conditions. Under the assumption that a concert would last an hour or more, it was assumed that the same noise level would occur continuously for at least an hour. The model calculations for the fireworks show were based on the distance from the fireworks barge and the proposed maximum fireworks display duration of 20 minutes; the model did not account for any variability due to atmospheric/weather conditions. Short-term maximum noise levels (L_{max}) resulting from individual fireworks detonations would be substantially higher than the hourly average noise levels. Therefore, these L_{max} values were also estimated at each receiver point.

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Marine Mammal Receiver Points	
1.	Main Channel (north)
2.	Fish Harbor
3.	Cabrillo Marina (north)
4.	Main Channel (south)
5.	Cabrillo Marina (south)
6.	Firework Barge
7.	Bait Barge
8.	Cabrillo Beach

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Source: ESRI World Imagery (2022)

N

0 900 1,800

Feet

ICF

Figure 3.3-2
Biological Noise Assessment
West Harbor Modification Project

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3.3.7 Thresholds of Significance

Based on CEQA Guidelines Appendix G (Environmental Checklist), the Proposed Project would have a significant impact related to biological resources if it would result in the following.

- **BIO-1**: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a Candidate, Sensitive, or Special-Status Species in local or regional plans, policies, or regulations or by CDFW or USFWS.
- **BIO-2**: Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS.

Impact BIO-1. Would the Proposed Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a Candidate, Sensitive, or Special-Status Species in local or regional plans, policies, or regulations or by CDFW or USFWS?

Summary of 2009 SPW EIS/EIR Findings

The 2009 SPW EIS/EIR determined that sensitive species, particularly marine mammals and water birds, would be affected by the SPW Project. Most construction impacts were considered temporary and less than significant because the majority of potentially affected terrestrial and marine organisms are capable of movement and would be able to avoid construction disturbances. Many trees within the SPW Project provide valuable foraging, roosting, and nesting habitat for both native and nonnative bird species. The 2009 SPW EIS/EIR determined that tree removal-activities could have a significant impact if birds were roosting or nesting in the area, but that implementation of **MM-BIO-2**, *Conduct Nesting Bird Surveys*, would reduce this impact to less-than-significant levels. Some benthic and sessile marine invertebrates were identified as being potentially displaced from pile replacement; however, this, too, was considered a temporary and less-than-significant impact because there would be an overall net gain in the number of piles.

As a part of the SPW Project, in-water activities in shallow water could cause visible turbidity that may disturb designated special aquatic sites, such as eelgrass beds, and special-status bird species' foraging activities, including those of California least tern. The 2009 SPW EIS/EIR found that impacts would be significant, but that implementation of **MM-BIO-1**, *Monitor and Manage Turbidit*y, would prevent excessive turbidity, thereby minimizing the impact to less-than-significant levels.

The 2009 SPW EIS/EIR also determined that noise and vibration generated from pile driving activities could have a negative impact on marine mammals. Although marine mammals are motile and able to avoid areas that cause them distress, **MM-BIO-3**, *Avoid Marine Mammals*, was included to minimize impacts on marine mammals and reduce these impacts to less-than-significant levels, including employing sound-abatement practices for pile driving and creating a safety zone with additional operational procedures in place to utilize if marine mammals were to enter this area.

The potential for introducing invasive species through vessel hull-fouling, equipment, or ballast-water discharges from any vessel was the only significant and unavoidable operational impact associated with the SPW Project. At this time, there is no proven technology to completely eliminate this threat, and no mitigation measures were proposed for the introduction of invasive species.

Neither construction nor operation of the Proposed Project would involve any in-water or over-water work; thus, this potential impact was not applicable to this SEIR. All other operational impacts associated with the SPW Project were determined to be temporary and less than significant.

Summary of 2016 SPPM Addendum Findings

The 2016 SPPM Addendum determined that the project being analyzed would not result in new significant impacts, substantially increase the severity of a previously analyzed impact, nor require new mitigation measures that were not already addressed in the 2009 SPW EIS/EIR. The addendum concluded that biological-resources impacts resulting from the SPPM Project would be less than significant and that there would be no substantial change from the findings in the 2009 SPW EIS/EIR.

Impacts of the Proposed Project

No Candidate, Sensitive, or special-status terrestrial species are known to occur within the Project Site, and no federal Critical Habitat is within the Proposed Project area. All of the new Proposed Project features covered under this SEIR are located within upland areas in developed or disturbed areas that do not contain any suitable habitat to support special-status species, including listed species. Neither construction nor operation of the Amphitheater, 208 E. 22nd Street Parking Lot, Ferris wheel, or Amusement Attractions would involve any in-water or over-water work. Therefore, no direct impacts on special-status species or their suitable habitat or critical habitat is expected. However, special-status species do occur within the BSA and surrounding Harbor and could be indirectly affected by the Proposed Project. The following subsections discuss the potential Proposed Project-related impacts on special-status species that have a potential to occur in the Proposed Project area.

Construction

Construction-Related Activities

The Proposed Project would not result in any new significant impacts nor substantially increase the severity of a previously analyzed impact on terrestrial or marine sensitive species. Construction for the Proposed Project would be conducted entirely on upland lands in the SPW that are already developed or highly modified; none of these lands have the potential to support any special-status plant or wildlife species, including federally or state-listed species. As such, no permanent or direct impacts (e.g., loss of habitat, mortality, injury) on any special-status species are anticipated to occur during construction activities. Listed and other sensitive marine species, including water birds (e.g., California least tern, California brown pelican, black skimmer, California sea lion), that use the water surface and shorelines and could be present in the adjacent Harbor could potentially be temporarily disturbed or displaced during construction. Temporary indirect impacts on these species and their suitable habitat resulting from construction activities would be similar to those evaluated in the 2009 SPW EIS/EIR (e.g., noise, dust, night lighting). Therefore, no new impacts or increased severity of impacts on sensitive species that have not already been addressed in the 2009 SPW EIS/EIR would

occur as a result of construction activities, and no new avoidance, minimization, or mitigation measures would be required. Special-status plant and wildlife species and their habitat requirements, regulatory status, and potential for occurrence within the BSA are detailed in Appendix D of this SEIR.

As discussed in the 2009 SPW EIS/EIR, landscape plantings, as well as buildings and other structures (e.g., light stands), provide some value to bird species protected under the MBTA in the form of roosting and nesting habitat. Vegetation, particularly mature trees and shrubs, and structures provide suitable habitat for nesting birds and are likely used by many birds in the Proposed Project area, although disturbances (e.g., traffic, noise, night lighting, human activity) from the surrounding heavily urbanized area would preclude nesting by species that are sensitive to human presence, including most special-status species. Black-crowned night heron and great blue heron are reported to nest at the Port within the Proposed Project area, outside of the LOD (Wood 2021). Construction-related activities have the potential to affect active native resident and/or migratory bird nests if, and to the extent that, those trees, shrubs, or structures were trimmed or removed during the avian nesting season and contained nests. Construction activities, such as demolition, grading, and building of new structures, could also occur adjacent to active nests, causing nest failures or abandonment. These potential impacts on nesting birds have already been addressed in the 2009 SPW EIS/EIR and would be reduced to a less-than-significant level with the implementation of **MM-BIO-2**, *Conduct Nesting Bird Surveys*; therefore, no new avoidance, minimization, or mitigation measures would be required.

With the implementation of **MM-BIO-2**, *Conduct Nesting Bird Surveys*, the Proposed Project would not create a new impact nor increase the severity of a previously identified impact. The impact would be less than significant with mitigation.

208 E. 22nd Street Parking Lot

Paving the entirety of the 22-acre 208 E. 22nd Street Parking Lot site—with the exception of 1.92 acres of already paved parking and some landscaping along the eastern side—would result in the permanent removal of the ruderal vegetation in the open-lot portion of the 208 E. 22nd Street Parking Lot site. However, the open lot is composed of compacted soil and gravel vegetated with weedy, nonnative species and does not provide any suitable habitat to support any special-status plant or wildlife species (see Section 3.3.3, *Environmental Setting*, for details). Should the trees within the existing paved lot be removed, then impacts on nesting birds could occur (as discussed in the *Construction-Related Activities* section above). However, the potential impacts on nesting birds have already been addressed in the 2009 SPW EIS/EIR and would be reduced to a less-than-significant level with the implementation of **MM-BIO-2**, *Conduct Nesting Bird Surveys*. Therefore, construction activities at the 208 E. 22nd Street Parking Lot would not result in any new impacts on sensitive species from those already addressed in the 2009 SPW EIS/EIR, and no new additional avoidance, minimization, or mitigation measures would be required.

Operations

208 E. 22nd Street Parking Lot

The eastern portion (i.e., 1.92 acres) of the 208 E. 22nd Street Parking Lot has already been developed prior to the Proposed Project, but it would experience increased usage with the addition of paved areas in the western portion of the open lot, as well as from the addition of new public events

(e.g., concerts, fireworks shows) at the SPW. Operation of the 208 E. 22nd Street Parking Lot could result in the production of human-produced trash that amasses in the parking lot and in trash receptacles, which can find its way into nearby waters, where sensitive species could consume it, causing suffocation, starvation, or debilitation or resulting in species becoming entangled in the debris. However, these impacts are not substantially different from what was previously analyzed in the 2009 SPW EIS/EIR. In addition, as a part of Proposed Project operation, trash would be cleaned up after each event to prevent debris from entering the storm-drain system and ocean (see Section 2.4.1, *Proposed Modifications*). During events, the event applicant would be responsible for cleaning the 208 E. 22nd Street Parking Lot; during non-concert events and general use, the Port and/or event applicant would be responsible for cleaning the parking lot. The Proposed Project would also be required to be compliant with the County of Los Angeles's Low Impact Development Ordinance (Title 12, Chapter 12.84), which consists of site-design approaches and BMPs designed to address runoff and pollution at the source, including trash and debris, which would capture urban runoff and prevent it from entering the Harbor. The City's) *Trash Total Maximum Daily Loads for the Los Angeles River Watershed* (Los Angeles RWQCB 2007) (TMDL Guidelines) and the *Statewide Water Quality Control Plans for Trash* (California SWRCB 2023) also require measures to limit load allocations associated with trash. Storm drains within the Project Site would be compliant with these requirements and would implement full trash-capture systems. Furthermore, implementation of **MM-BIO-7**, *Trash Management and Post-Event Cleanup*, would ensure that trash and other debris resulting from Amphitheater events would be removed from nearby marine environments that could support sensitive marine species.

With the implementation of **MM-BIO-7**, operations-related impacts associated with this new Proposed Project feature would remain less than significant, and there would be no substantial change from the findings in the 2009 SPW EIS/EIR.

Amphitheater and Fireworks

As described in Section 2.4, *Project Description*, the Amphitheater addition to the Project Site is planned to seat up to 6,200 individuals. The proposed annual schedule for the Amphitheater would include up to 100 events between April and November, with additional, sponsored, smaller events per availability. Fireworks shows would occur at certain Amphitheater events (approximately 25 events per year), and the shows would last for up to 20 minutes per event. When used at an event, the fireworks would be launched from a barge, which would be placed temporarily in the Outer Harbor, just south of the Cabrillo Marina, off the edge of the eastern pier.

Both of these Proposed Project features could result in direct and indirect impacts, including noise, trash, and night lighting, which could harm sensitive species. The primary impact would be on marine species that occur within the Harbor or rest/roost along the waterfront; because the LOD does not contain any suitable habitat to support sensitive species, impacts on terrestrial sensitive species are not anticipated.

Noise

The most notable impact on sensitive species from implementation of the Proposed Project would be the introduction of noise from concerts at the Amphitheater and fireworks shows during special events, which could negatively affect marine mammals and water birds, including nesting California least tern.

Noise-related impacts on sensitive species resulting from concerts at the Amphitheater and fireworks shows during special events were not assessed as a part of the 2009 SPW EIS/EIR; therefore, this impact is new when compared with the impact analysis from the 2009 SPW EIS/EIR.

Marine Mammals

All marine mammals are protected under the MMPA, and some are also protected by FESA. The MMPA includes protection against potential injury (Level A harassment) and disruption of behavioral patterns (Level B harassment). Under the MMPA, marine mammals are considered *harassed* when exposed to sound levels that may lead to mortality, temporary or permanent hearing impairment (i.e., Temporary Threshold Shift or Permanent Threshold Shift), non-auditory physical or physiological effects, and behavioral disturbance. Temporary Threshold Shifts qualify as a Level B harassment, and Permanent Threshold Shifts qualify as a Level A harassment.

Table 3.3-1 provides in-air thresholds for the onset of Level B harassment, based on behavioral disturbance, for different marine-mammal hearing groups, as determined by NMFS and the National Ocean Service (NMFS 2023c). Sound associated with human activities can result in negative behavioral impacts on marine mammals, including a reduction in fitness by disrupting rest periods in haul-out and other locations, particularly at night. Protecting against Level B harassment also means protecting against Level A harassment, greatly reducing the potential for potential injury.

Table 3.3-1. In-Air Level B Harassment Acoustic Thresholds

Species/Group	Threshold[1]
Harbor Seal	90 dBZ RMS, flat
All Other Pinnipeds	100 dBZ RMS, flat

Source: NMFS 2023c.
[1] Refer to Section 3.8.3.1, *Noise Fundamentals*, for additional information.
dBZ/flat = flat frequency response without any frequency-weighting adjustments (e.g., A-weighted decibels); RMS = root-mean-square sound-pressure level.

Based on the noise analysis for marine species, Amphitheater events and firework shows could produce noise levels high enough to equal or exceed the established thresholds for Level B harassment for harbor seals and all other pinnipeds, as follows (see Table 3.3-1 and Table 3.3-2).

- Depending on the weather conditions, average (i.e., L_{eq} dBZ) Amphitheater noise levels are anticipated to exceed the thresholds for harbor seals at Fish Harbor, Cabrillo Marina (north), and Main Channel (south).
- Combined hourly average-noise levels from the Amphitheater and firework displays are anticipated to exceed the Level B harassment criterion for harbor seals at Fish Harbor, Cabrillo Marina (north), Main Channel (south), Firework Barge, and Bait Barge.
- Worst-case, maximum noise levels from Amphitheater events and firework shows are anticipated to exceed the Level B harassment criterion for harbor seals at Fish Harbor, Cabrillo Marina (north), Main Channel (south), Cabrillo Marina (south), Firework Barge, and Bait Barge.
- Worst-case, maximum noise levels from fireworks shows are also anticipated to exceed the Level B harassment criterion for all other pinnipeds at Firework Barge and Bait Barge.

Table 3.3-2 provides the estimated noise levels for the receiver points from the biological noise analysis performed for the Proposed Project; receiver points were based on high-population density areas for marine species (Wood 2021). See Appendix F for detailed noise calculations.

Table 3.3-2. Estimated Noise Levels for Marine Mammal Receiver Points near the West Harbor Amphitheater Project Site and Proposed Fireworks Launch Location

Marine Mammal Receiver Point	Estimated Amphitheater Noise Levels (L_{eq} dBZ)		Estimated Fireworks Noise Levels (L_{eq})			Estimated Combined Average Noise Levels (L_{eq} dBZ)		Worst-Case Maximum Noise Level (dBZ)
	1-Hour L_{eq} with Favorable Weather	1-Hour L_{eq} with Unfavorable Weather	Distance from Fireworks Barge (feet)	1-Hour L_{eq} for a 20-Minute Display (dBZ)	L_{max} During Fireworks (dBZ)	1-hour L_{eq} with Favorable Weather and 20-Minute Fireworks Display	1-hour L_{eq} with Unfavorable Weather and 20-Minute Fireworks Display	
1. Main Channel (north)	74	79	10,000	62	82	74	79	82
2. Fish Harbor	**92**[1]	89	6,800	65	86	**92**[1]	89	**92**[1]
3. Cabrillo Marina (north)	83	**92**[1]	3,700	70	**91**[1]	83	**92**[1]	**92**[1]
4. Main Channel (south)	**95**[1]	**95**[1]	2,800	73	**94**[1]	**95**[1]	**95**[1]	**95**[1]
5. Cabrillo Marina (south)	80	89	2,700	73	**94**[1]	81	89	**94**[1]
6. Firework Barge	89	89	650	85	**106**[2]	**90**[1]	**90**[1]	**106**[2]
7. Bait Barge	89	89	550	87	**108**[2]	**91**[1]	**91**[1]	**108**[2]
8. Cabrillo Beach	77	89	3,650	70	**91**[1]	78	89	**91**[1]

[1] Exceeds in-air Level B harassment acoustic thresholds for harbor seal.

[2] Exceeds in-air Level B harassment acoustic thresholds for harbor seal and all other pinnipeds.

dBZ = "flat" or "unweighted" decibels; L_{eq} = equivalent continuous sound level.

Areas where noise levels would exceed the Level B harassment threshold for harbor seals and all other pinnipeds would only affect haul-out areas; no breeding habitat is within the BSA, so nursery areas would not be affected. Additionally, marine mammals in the Port experience exposure to many noise-producing activities daily (e.g., large cargo ships, oil tankers, cruise ships moving through the Harbor, industrial work and machinery, cargo and freight activities), and have been exposed to temporary noise events, like firework shows (e.g., Fourth of July, Cars and Stripes events). Noise levels produced from the Amphitheater and combined Amphitheater events and firework displays have the potential to produce short-term and temporary impacts on harbor seals (and pinnipeds other than harbor seals), such as flushing them from their haul-out and foraging locations, although they return a short time later. While noise levels would exceed the Level B harassment threshold for harbor seal (i.e., 90 dBZ) from both concerts at the amphitheater and combined amphitheater and fireworks shows at Fish Harbor, Cabrillo Marina (north), and Main Channel (south) receiver points and from fireworks shows at Cabrillo Marina (south), Firework Barge, Bait Barge, and Cabrillo Beach receiver points, harbor seal is not expected to occur at these locations. Wood (2021) indicates that harbor seals are most commonly observed adjacent to the southern portion of Pier 400, where they have a well-used haul-out area. No harbor seals were observed at Fish Harbor, Cabrillo Marina (south), or the Main Channel. As such, impacts from noise events on harbor seal are not anticipated. Because noise levels would exceed the Level B harassment threshold for all other pinnipeds (i.e., 100 dBZ) from fireworks shows at the Bait Barge and Fireworks Barge, impacts on pinnipeds other than harbor seal at these two locations could occur.

With the implementation of **MM-NOI-3** (described in Section 3.8, *Noise*, of this SEIR), Amphitheater noise levels would be reduced to below the Level B harassment thresholds at all of the receiver points (see Table 3.3-3 in Section 3.3.8.6, *Significance after Mitigation*). However, even with the implementation of **MM-NOI-3**, fireworks show noise levels at the Bait Barge and Fireworks Barge would remain above the Level B harassment threshold for pinnipeds other than harbor seal (i.e., 100 dBZ). Particularly, the Bait Barge site is noted as a location of significance where pinnipeds other than harbor seals can be found (Wood 2021). Therefore, there is the potential for behavior modification to occur for pinnipeds other than harbor seal at the Bait Barge and Fireworks Barge during fireworks shows. Due to the likelihood of pinnipeds other than harbor seal being present at these locations, and the potential of up to 25 firework shows per year, implementation of **MM-BIO-8**, *Marine Mammal Monitoring During Fireworks Events*, would be necessary to observe potential behavior modification of pinnipeds other than harbor seal at the Bait Barge and Fireworks Barge receiver points.

Water Birds

The introduction of noise from concerts at the Amphitheater and fireworks shows during special events has the potential to affect California least tern nesting within the Harbor at Pier 400. Other special-status water birds that could be affected include California brown pelican and double-crested cormorant, both of which roost within the Port. Direct impacts on sensitive water birds within the Proposed Project area could include disturbance or alteration of behavior. Increased noise levels could generate a physiological response of stress within birds. This response would be particularly notable in birds that are night roosting (e.g., California least tern) because the normal physiological state of birds at rest is low anxiety. For nest-tending or roosting birds, especially at night, stress and alarm levels could be heightened by unanticipated noise, which can result in increased vocalizations, shifting on nests, and movement off nests, including running or flight, and larger-scale colony alarm.

There is limited research available on noise impacts on birds from concerts (Battisti 2024). Of the few studies available, most are on captive zoo animals. Harley et al. (2022) investigated the effects of an outdoor music event on zoo animals in Ireland, including red-crowned cranes (*Grus japonensis*) whose enclosure was approximately 2,300 feet from the concert arena. The study reported significant changes in the cranes' behavior (e.g., less likely to be resting or asleep) during the event compared to pre- and post-concert event. Another zoo study in Australia found that Fiordland penguins (*Eudyptes pachyrhynchus*), whose exhibit was approximately 984 feet from the concert stage, altered their behavior and showed greater signs of stress during music events, including increased movement, less time preening, more vigilant behavioral displays, and changes in interactions amongst individual penguins (Fanning et al. 2020). Birds appeared to return to normal behavior following the concert events in both of these studies. Battisti (2024) conducted a short-term study of an outdoor music festival in central Italy and reported a change in bird assemblages following the concert event, indicating a temporary dispersal of birds from the area due to high-intensity noise pollution. An additional study of an outdoor concert in an urban park in Ireland, which experiences regular visual and noise disturbances, reported no significant disturbance to local bird populations from the event, including to water birds such as little grebe (*Tachybaptus ruficollis*), mallard (*Anas platyrhynchos*), moorhen (*Gallinula chloropus*), and grey heron (*Ardea cinerea*) (Scott Cawley 2015). None of these studies reported long-term or permanent impacts from concerts, although the study periods were limited and more research is needed.

The California least tern nesting colony at Pier 400, as well as the nesting tern colony at Marina del Rey, has been monitored by Langdon Biological Consulting for 20 years (2004 through the 2024 nesting season). Based on the long-term observations of these tern colonies, including the types of disturbances that cause negative responses in the terns, and the professional expertise of the senior tern monitor, noise from the amphitheater concerts would not result in harmful effects (e.g., abandonment of the nesting site) on the California least tern nesting colony at Pier 400 (Langdon Biological Consulting 2024). In addition, the research studies on noise impacts on birds from concerts found only minor disturbances (e.g., less time preening or sleeping, increased movement) from outdoor music venues that occurred at much closer distances (984–2,300 feet) than what would occur under the Proposed Project (approximately 1.7 miles from the Amphitheater) (Scott Cawley 2015; Fanning et al. 2020; Harley et al. 2022; Battisti 2024). As such, it is assumed that impacts would be even less at such a greater distance (over 1 mile farther away). Therefore, based on the professional opinion of the Pier 400 tern monitoring biologist and the lack of long-term or permanent impacts on birds from other concert studies, impacts from concert-related noise on nesting California least tern would be less than significant. The nesting site at Pier 400 is located approximately 1.25 miles from the proposed fireworks-launch location. A monitoring survey of the nesting site at Pier 400 was performed on July 4, 2021, to observe tern activity and behavior during fireworks shows in San Pedro, Wilmington, and Long Beach. No signs of agitation or stress were detected in the California least tern colony during the entirety of the fireworks shows, although groups of black skimmers were observed exhibiting alarm response (e.g., flying, actively calling) (LBC 2021). Another study in San Diego Bay looked at sections of two California least tern colonies at the Naval Amphibious Base Coronado in relation to firework-display events (Boylan and Nordstrom 2014). One colony was located approximately 1 mile from the detonation site, and the other colony was located approximately 3 miles from the detonation site. An analysis of flying and calling behavior and routine monitoring data did not identify any adverse effects on the terns at either colony. An additional study conducted in San Diego Bay (San Diego Unified Port District 2017), which observed a nesting colony

of California least terns at the San Diego International Airport that was located approximately 1 mile to 2.5 miles from the detonation sites, reported that there was "no observed clear evidence of lasting negative effects [of fireworks shows]" on the nesting colony. However, the study did report that roosting terns shifted to higher activity levels in response to the fireworks shows. Some terns initiated running or flying in response to fireworks; other birds also increased alarm-call vocalizations. Although the study noted some limited response of California least terns to noise and light from existing fireworks shows; it found that the majority of birds in the colony remained in place or returned shortly after the fireworks shows were completed (San Diego Unified Port District 2017). None of these studies detected a direct link of fireworks shows to mortality of adults or chicks or to a decrease in productivity of nesting pairs (Boylan and Nordstrom 2014, San Diego Unified Port District 2017, LBC 2021).

Although other studies have reported nest abandonment by shorebirds following the discharge of fireworks, the launch locations were closer to the nesting colonies (e.g., 0.15-mile away) and/or they were located in areas with little development (e.g., offshore island) (USFWS 1997; Weigand and McChesney 2008). Like the results from the Los Angeles Harbor study (LBC 2021), results in the San Diego Bay indicated little to no effect on nesting terns (Boylan and Nordstrom 2014). Both areas are extensively developed, and nesting colonies for California least tern and roosting sites for other special-status water birds are located in highly urbanized settings, where birds are habituated to human noise and disturbance. Nesting colonies in these studies are also located a similar distance (i.e., more than 1 mile) from the fireworks launch site. Therefore, the San Diego Bay studies support results observed in Los Angeles Harbor, and no impact on water birds is expected from firework shows.

Although the most directly relevant studies indicate that fireworks shows have little or no effect on nesting terns, due to the potential of up to 25 fireworks shows per year, and the likely overlap with the nesting season, **MM-BIO-9**, *California Least Tern Nesting Colony Monitoring During Fireworks Events*, will be implemented to ensure that event-related noise impacts from fireworks shows are less than significant.

Trash and Debris

Another potential impact on sensitive species include trash and debris produced from increased human activity from events at the Amphitheater and fireworks shows, which are expected to attract thousands of individuals to the area. As a result, a large amount of human-produced trash would be produced would amass in trash receptacles and could litter the ground. Concert events could also utilize other material that could turn into waste (e.g., confetti), which could find its way into nearby waters, particularly under breezy and windy conditions.

Fireworks shows generally produce a large amount of paper and cardboard, as well as some cotton, metal, and plastic waste. Waste from the exploded shells could fall primarily into the waters around the SPW. Fireworks shows would likely vary in time and capacity, so the exact total volume of trash and debris that would be generated by the proposed fireworks shows is unknown. Variable wind conditions also contribute to the size and scope of the fallout area for fireworks displays, with long-term studies indicating that the bulk of debris falls to the surface within a 0.5-mile radius of the launch site (NMFS 2012). The NMFS study notes that heavier trash (e.g., cardboard casings) falls closer to the launch site, whereas lighter trash (e.g., cotton and plastic waste) can be moved farther away by winds. Although the NMFS study found no visual evidence of acute or chronic impacts on

the environment or wildlife from firework debris, cleanup activities did occasionally find debris (e.g., cardboard cylinders, disks, paper strips and wadding, disks, tubes, shell case fragments) in waters around the study area over time.

Debris generated from both the Amphitheater events and/or fireworks shows could cause injury or death to sensitive species because the waste could cause entanglement or be mistakenly consumed, causing suffocation, starvation, or debilitation. Trash and debris could also be introduced to nearby haul-out locations, beaches, and riprap within the Port, as well as open-water areas, which could deter sensitive species from using these important habitat areas. Negative impacts could also occur via contamination of the marine environment if material used to support concert events (e.g., mylar or metallic confetti) were not biodegradable and wound up in the Harbor. However, these impacts are not substantially different from what was previously analyzed in the 2009 SPW EIS/EIR. In addition, where possible, sustainable products and practices, such as biodegradable confetti, would be used during events, and care would be taken to direct the spray away from the Main Channel. This material, along with other trash, would be cleaned up after each event as a part of Proposed Project operation to prevent debris from entering the storm drain system and ocean (see Section 2.4.1). Furthermore, implementation of **MM-BIO-7**, *Trash Management and Post-event Cleanup*, and **MM-BIO-10**, *Biodegradable Venue Products*, would ensure that trash and other debris resulting from Amphitheater events and/or fireworks shows would be removed from nearby marine environments that could support sensitive marine species and that biodegradable products would be used to reduce impacts on nearby marine environments. In addition, event organizers would comply with City of Los Angeles Ordinance No. 187030, *Disposable Foodware Accessories and Plastic Drinking Straws* and the City's Comprehensive Plastics Reduction Program and Zero Waste Plan, with the incorporation of Ordinance 187718, *Zero Waste at City Facilities and Events on City Property*, once adopted. Ordinance 187718 contains extensive provisions, including, but not limited to, the ban of single-use plastics and EPS foam (or Styrofoam™) and the reduction of disposable foodware and accessories. The fireworks discharger would be required to comply with the requirements specified in NPDES General Permit No. CAG994007 (Los Angeles RWQCB, Order No. R4-2023-0180, adopted May 25, 2023), which specifies standard operating procedures for all fireworks shows, including a BMP Plan that will include cleanup practices following fireworks shows. With implementation of these mitigation measures and adherence to local and state trash ordinances and NPDES General Permit No. CAG994007 for fireworks displays, the new potential impact from Amphitheater events and fireworks shows would be less than significant.

Night Lighting

Direct impacts on sensitive species resulting from Amphitheater events and fireworks shows could occur as a result of night lighting. Artificial night lighting can affect migrating birds by causing confusion and disorientation and trapping individuals in lit areas, which can, in turn, lead to exhaustion and depletion of energy reserves. Disorientation can also cause them to collide with glass buildings or windows (USFWS 2021; Audubon 2020). Although the Amphitheater venue would contain lights, it would not represent a substantial change from current ambient Port conditions. The lighting proposed would blend in with the night lighting of Port operations and would not adversely affect light-sensitive areas. Lighting associated with the Proposed Project would be designed in accordance with the *L. A. Waterfront Design Guidelines*, which include lighting recommendations to minimize light pollution, light spill, and glare, and would adhere to local and national lighting standards and guidelines (see Section 3.1.9 for details). Furthermore, species that utilize the area are

already adapted to the heavily human-disturbed environment. With adherence to these national and local lighting standards and guidelines, the new potential impact from lighting would be less than significant. This impact was not assessed in the 2009 SPW EIS/EIR.

Ferris Wheel and Amusement Attractions

High-density bird populations have been reported in the SP Slip, which is located directly south of the Project Site (Wood 2021). The SP Slip contains structures, including docks/pilings and buildings, which provide roosting and foraging resources for avian species associated with urban structures, such as rock pigeon, western gull, barn swallow, and European starling (Wood 2021). The introduction of tall amusement attractions (i.e., the Ferris wheel and Amusement Attractions) could affect local and migrating avian species.

The Ferris wheel would be a prefabricated structure with a 175-foot diameter. Construction of the Ferris wheel would include combining the prefabricated parts and transporting them via truck from the Ferris wheel's current location in northern California. Operation of the Ferris wheel would be similar in nature to the previously proposed 100-foot-diameter Ferris wheel included in the 2009 SPW EIS/EIR.

With approval of the Proposed Project, Amusement Attractions previously approved for the Discovery Sea Amusement Area in the 2016 SPPM Addendum would also be developed in the City Park area of the Project Site. Attractions could include double-decker carousel, wave swings, a drop tower, or other amusement attractions found in similar waterfront destinations; these structures are not anticipated to exceed 75 feet in height.

Introduction of these tall amusement attractions could affect the migration and movement of avian species across the Harbor because the attractions would take up space in local avian airways. However, these impacts are expected to be minor considering the existing, highly developed nature of the Port, which includes many structures that are taller than the proposed amusement attractions (e.g., container cranes [265 feet], cruise ships [236 feet], cargo ships [116 feet], multiple bridges of varying heights). Spatially, both the Ferris wheel and Amusement Attractions are small in relation to other structures already present along the Port. Therefore, the addition of the Ferris wheel and Amusement Attractions are not expected to result in a substantial alteration of the skyline along the SPW, nor result in the addition of a new feature that would disturb or harass avian species in an area where they are already acclimated to the highly modified environment.

Both the Ferris wheel and Amusement Attractions would include some lighting on the structures. Artificial night lighting can cause disturbance, alteration of behavior, or disorientation in avian species, as described in the *Water Birds* subsection above. However, as discussed above and in Section 3.1.9, lighting from the Proposed Project would not represent a substantial change from current ambient Port conditions, and lighting for Proposed Project features would adhere to national and local lighting standards and guidelines. Furthermore, species that utilize the area are already adapted to the heavily developed environment. Therefore, impacts from lighting would be less than significant.

The addition of the Ferris wheel and Amusement Attractions could potentially result in an increase in bird strikes if birds traveling through the area were to collide with one of these structures. However, these impacts are expected to be minor, given the height of the Ferris wheel and Amusement Attractions compared to taller communication towers (i.e., >350 feet), where bird strikes are high

(USFWS 2023c). Unlike structures where bird strikes are common (e.g., skyscrapers, wind turbines, communication towers), the Ferris wheel and Amusement Attractions would lack surfaces (e.g., extensive glass) that reflect the open sky or surrounding landscape, which can cause disorientation and are a major source of bird strikes. Likewise, neither the Ferris wheel nor Amusement Attractions would include solid red lights that attract birds to towers or attachments (e.g., thick guy wires) that birds could collide with while avoiding the main structure, and both structures would operate very slowly, allowing birds to avoid collisions. Neither the Ferris wheel nor Amusement Attractions would be located along ridgelines or other landscape features that would attract migrating birds (USFWS 2016, 2022; Audubon 2016). Furthermore, the entire area along this portion of the Port would be lit up, illuminating the skyline so that the Ferris wheel and Amusement Attractions are visible at night. Therefore, impacts from bird strikes with these amusement attractions would remain less than significant, and there would be no substantial change from the findings in the 2009 SPW EIS/EIR or 2016 SPPM Addendum.

The Amusement Attractions could also be used for perching and nesting by urban-acclimated species, such as house finch, western gull, and American crow. Large aggregations of roosting birds or nests can be considered a human nuisance problem (e.g., accumulated droppings, damage to building materials, eyesore), and one measure businesses take to remedy the problem is clearing inactive nests. Should nests be removed during the breeding season, then direct mortality or injury of individuals and/or abandonment of eggs and/or young could occur. With implementation of **MM-BIO-11**, *Abandoned Nest Clearance Must Avoid Breeding Bird Season*, this new potential impact from nesting disruption would be less than significant. This impact was not assessed in the 2009 SPW EIS/EIR or 2016 SPPM Addendum.

Previous Mitigation Measures Applicable to the Proposed Project

Mitigation measure **MM-BIO-2**, *Conduct Nesting Bird Surveys*, was identified in the 2009 SPW EIS/EIR and 2016 SPPM Addendum and would apply to the Proposed Project to minimize impacts related to biological resources (see Section 3.3.5, *2009 Mitigation Measures and Revisions*, for a description of **MM-BIO-2**, *Conduct Nesting Bird Surveys*).

Mitigation measures **MM-BIO-1**, *Monitor and Manage Turbidity*, and **MM-BIO-3**, *Avoid Marine Mammals*, from the 2009 SPW EIS/EIR are not applicable to this SEIR because the Proposed Project does not include any in-water construction activities or pile driving.

New Mitigation Measures Applicable to the Proposed Project

MM-BIO-7. Trash Management and Post-Event Cleanup.

To prevent trash and debris produced by Amphitheater events from entering nearby waters and causing harm to sensitive marine environments and species, a Standard Operating Procedure (SOP) will be developed for trash management and post-event cleanup. The SOP will be reviewed by LAHD prior to implementation. At a minimum, the SOP must include the following.

- Trash receptacles must be covered containers to deter animals (e.g., gulls) from easily accessing litter and prevent wind-blown trash from entering the Harbor. The number and placement of receptacles must be adequate to accommodate the event.

- Following any events at the Project Site, trash will be removed from all venue locations, including at the Amphitheater, parking lots, parks, surrounding walkways, and open areas as soon as practicable, and no later than 4 hours following the event. Trash and debris will be properly disposed of in accordance with all applicable regulations.
- For events, the event organizer will be responsible for cleaning the 208 E. 22nd Street Parking Lot. For non-concert events and general use, the Port and/or event applicants will be responsible for cleaning the 208 E. 22nd Street Parking Lot. When used for Amphitheater concerts, the 208 E. 22nd Street Parking Lot will be subject to the requirement that all trash will be removed as soon as practicable, and no later than 4 hours following the event, as described in the above bullet point.

MM-BIO-8. Marine Mammal Monitoring During Fireworks Events

A qualified biologist will monitor marine mammals at the Bait Barge and the Fireworks Barge at Tenant expense during fireworks shows at least once per month for the first year of operation to determine whether event noises are negatively affecting marine mammals in the area. All monitoring will be conducted in accordance with a Marine Mammal Monitoring Plan that will be prepared by a qualified biologist and approved by LAHD in coordination with NMFS. A *qualified biologist* is a person who, by reason of their knowledge of the natural sciences and the principles of marine biology, acquired by marine biology education and experience, performs services including, but not limited to, consultation investigation, surveying, evaluation, planning, or responsible supervision of marine biology activities when those professional services require the application of biological principles and techniques.

Any observed disturbances will be reported to LAHD and NMFS within 24 hours. Within 30 days following the completion of each monitoring event, the qualified biologist will prepare a report for submittal to West Harbor, LAHD and NMFS that details the findings of the monitoring results. This report will include an introduction/background, methods, results, discussion, and recommendations. Recommendations may include BMPs, additional monitoring, continuance of monitoring if impacts are observed, or other measures to ensure that no incidental harassment or other significant impact occurs at the monitoring sites, up to and including cessation of fireworks shows. If discernable negative changes in marine mammal behavior are observed, then consultation with NMFS will be initiated to develop measures to avoid negative impacts.

MM-BIO-9. California Least Tern Nesting Colony Monitoring During Fireworks Events

LAHD least tern monitors will monitor the California least tern nesting colony at Pier 400 at Tenant expense during Amphitheater fireworks shows when terns are present during the California least tern nesting season (i.e., March 15–August 31), to ensure that event noise does not negatively affect nesting birds. Monitoring will be performed by a qualified biologist.

Any nesting disturbances that result from the Amphitheater fireworks will be reported within 24 hours to LAHD, USFWS, and CDFW. Following the first nesting season of monitoring, results will be assessed and shared with USFWS and CDFW, who will determine whether further monitoring would be necessary. Within 30 days of each monitoring event, the qualified biologist will prepare a report for submittal to West Harbor, LAHD, USFWS, and CDFW that details the findings of the monitoring results. All monitoring will be conducted in accordance with a California Least Tern Nesting Colony Monitoring Plan that will be prepared by the LAHD in

coordination with USFWS. This report will include an introduction/background, methods, life stage of California least tern present, observations of any stressors and negative bird behavior, and any recommendations. Recommendations may include BMPs, additional monitoring, continuance of monitoring if impacts are observed, or other measures to ensure that no significant impact occurs at the nesting site, up to and including cessation of firework shows. If discernable negative changes in bird behavior are observed, then consultation with USFWS and CDFW will be initiated to develop measures to avoid negative impacts on California least terns.

MM-BIO-10. Biodegradable Venue Products.

Wherever reusable, compostable, and/or recyclable products are infeasible or not required by regulations, event organizers will invest in biodegradable products (e.g., confetti, decorations, packaging, single-use items) for all Amphitheater events to prevent injury and damage to surrounding sensitive marine environments and protect species from harmful materials (e.g., plastics, mylar, metals). Event organizers are encouraged to utilize reusable food ware, drinkware, napkins, and accessories for dine-in services, to the extent feasible. Event organizers are encouraged to procure paper products (i.e. napkins and event literature) that are unbleached and contain a minimum of 30-percent post-consumer recycled content.

MM-BIO-11. Abandoned Nest Clearance Must Avoid Breeding Bird Season.

To avoid impacts on nesting birds protected under the MBTA and/or similar provisions of the CFG Code, clearance of abandoned bird nests on the Ferris wheel, Amusement Attractions, or other Proposed Project structures (e.g., Amphitheater) must occur outside of the breeding-bird season (February 15–September 1), unless cleared by a qualified biologist.

Significance after Mitigation

As discussed above, impacts relating to construction activities and the 208 E. 22nd Street Parking Lot were assessed in the 2009 SPW EIR/EIS. The Proposed Project would not result in a new impact or increased severity of an impact when compared to the impact analysis in the 2009 SPW EIS/EIR. Implementation of **MM-BIO-2**, *Conduct Nesting Bird Surveys*, and **MM-BIO-7**, *Trash Management and Post-event Cleanup*, would ensure that residual impacts on sensitive terrestrial and marine species as a result of construction-related activities and the 208 E. 22nd Street Parking Lot are reduced to a less-than-significant level.

For other issues that were not assessed in the 2009 SPW EIS/EIR, including impacts from Amphitheater events, fireworks shows, the Ferris wheel and Amusement Attractions, as discussed above, implementation of **MM-BIO-2**, *Conduct Nesting Bird Surveys*, **MM-BIO-7**, *Trash Management and Post-event Cleanup*, **MM-BIO-10**, *Biodegradable Venue Products*, and **MM-BIO-11**, *Abandoned Nest Clearance Must Avoid Breeding Bird Season*, as well as compliance with the requirements specified in NPDES General Permit No. CAG994007, would fully reduce impacts on sensitive terrestrial and marine species as a result of debris and trash from Amphitheater events, fireworks shows, and the Amusement Attractions to less-than-significant levels. Lighting from Proposed Project features would not represent a substantial change from current ambient Port conditions and, therefore, any impacts from night lighting would be less than significant. Noise impacts from fireworks events would be above the Level B harassment thresholds for pinnipeds other than harbor seal at the Bait Barge and Fireworks Barge. Noise impacts would be reduced, but not

eliminated, by **MM-NOI-3** which would reduce noise levels from the Amphitheater (see Section 3.8.8.6, *New Mitigation Measures Applicable to the Proposed Project*, for details); predicted noise levels after implementation of **MM-NOI-3** are summarized in Table 3.3-3, below. Noise impacts on pinnipeds other than harbor seal would be reduced to less-than-significant levels with the implementation of **MM-BIO-8,** *Marine Mammal Monitoring During Fireworks Events*. Noise impacts on nesting California least tern would be reduced to less-than-significant levels with the implementation of **MM-BIO-9**, *California Least Tern Nesting Colony Monitoring During Fireworks Events*.

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Table 3.3-3. Estimated Noise Levels for Marine Mammal Receiver Points near the West Harbor Amphitheater Project Site and Proposed Fireworks Launch Location, after Implementation of MM-NOI-3

Marine Mammal Receiver Point	Estimated Amphitheater Noise Levels (L_{eq} dBZ)		Estimated Fireworks Noise Levels (dBZ)			Estimated Combined Average Noise Levels (L_{eq} dBZ)		Worst-Case Maximum Noise Level, dBZ
	1-Hour L_{eq} with Favorable Weather	1-Hour L_{eq} with Unfavorable Weather	Distance from Fireworks Barge (feet)	1-Hour L_{eq} for 20-Minute Display (dBZ)	L_{max} During Fireworks (dBZ)	1-hour L_{eq} with Favorable Weather and 20-Minute Fireworks Display	1-hour L_{eq} with Unfavorable Weather and 20-Minute Fireworks Display	
1. Main Channel (north)	64	69	10,000	62	82	66	70	82
2. Fish Harbor	82	79	6,800	65	86	82	79	86
3. Cabrillo Marina (north)	73	82	3,700	70	**91**[1]	75	82	**91**[1]
4. Main Channel (south)	85	85	2,800	73	**94**[1]	85	85	**94**[1]
5. Cabrillo Marina (south)	70	79	2,700	73	**94**[1]	75	80	**94**[1]
6. Firework Barge	79	79	650	85	**106**[2]	86	86	**106**[2]
7. Bait Barge	79	79	550	87	**108**[2]	88	88	**108**[2]
8. Cabrillo Beach	67	79	3,650	70	**91**[1]	72	80	**91**[1]

[1] Exceeds in-air Level B harassment acoustic thresholds for harbor seal.

[2] Exceeds in-air Level B harassment acoustic thresholds for harbor seal and all other pinnipeds.

dBZ = "flat" or "unweighted" decibels; L_{eq} = equivalent continuous sound level; L_{max} = short-term maximum noise level.

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Impact BIO-2 Would the Proposed Project interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Summary of 2009 SPW EIS/EIR Findings

The 2009 SPW EIS/EIR determined that special aquatic habitats and sensitive natural communities would be affected by the SPW Project. These included scattered kelp beds along the Main Channel adjacent to Warehouse 1 and the proposed Outer Harbor Cruise Terminals, eelgrass and mudflat habitat adjacent to the Youth Camp, mudflat habitat at Berth 78–Ports O'Call, and mudflat, salt marsh, and cord grass habitat at the Salinas de San Pedro Salt Marsh. Impacts from the SPW Project included temporary disturbances from barges used for pile driving, work-boat activities, shading, and disturbances, and short-term loss of habitat from salt marsh enhancement/restoration activities. The 2009 SPW EIS/EIR determined that implementation of **MM-BIO-1**, *Monitor and Manage Turbidity*, **MM-BIO-2**, *Conduct Nesting Bird Surveys*, **MM-BIO-3**, *Avoid Marine Mammals*, **MM-BIO-4**, *Enhance and Expand Salinas de San Pedro Salt Marsh*, and **MM-BIO-5**, *Prepare a Habitat Mitigation and Monitoring Plan*, would reduce these impacts to less-than-significant levels. However, the 2009 SPW EIS/EIR also concluded that construction activities associated with the expansion and enhancement of the mudflat and salt marsh as a part of the SPW Project mitigation and for the long-term benefit of the marsh would result in significant short-term impacts on the salt marsh and eelgrass and mudflat habitat within the marsh. Although implementation of **MM-BIO-5** would reduce these effects, this short-term impact would remain significant and unavoidable. None of the special aquatic habitats or sensitive natural communities identified in the 2009 SPW EIS/EIR are located within the Proposed Project's LOD.

Summary of 2016 SPPM Addendum Findings

The 2016 SPPM Addendum found that biological-resource conditions within the SPW study area have remained relatively the same since the certification of the 2009 SPW EIS/EIR. Because the mudflat at Berth 78 is considered a depleted natural community and special aquatic site under Section 404(b)(1) Guidelines, and impacts on it would have required compensatory mitigation, the promenade design was modified so that it no longer crossed or produced shade over the mudflat. This design change would avoid any impacts on the mudflat area and eliminate the need for mitigation. These proposed modifications to the SPW Project would result in an overall reduction of impacts on biological resources, eliminating the need for **MM-BIO-4**, E*nhance and Expand Salinas de San Pedro Salt Marsh*, and **MM-BIO-5**, *Prepare a Habitat Mitigation and Monitoring Plan*. Consequently, the 2016 SPPM Addendum determined that the project being analyzed would not result in new significant impacts, substantially increase the severity of a previously analyzed impact, nor require new mitigation measures that were not already addressed in the 2009 SPW EIS/EIR. The addendum concluded that biological-resources impacts resulting from the SPW Project would be less than significant, and there would be no substantial change from the findings in the 2009 SPW EIS/EIR.

Impacts of the Proposed Project

The Proposed Project is located within upland areas in developed or disturbed areas that do not contain any sensitive natural communities, including riparian habitats or sensitive marine habitats. Neither construction nor operation of the Amphitheater would involve any in-water or over-water work. A mudflat is located within the BSA, outside of the LOD, and sensitive marine habitats (e.g., eelgrass beds, kelp beds, coastal salt marsh) occur to the south, in the Outer Harbor, outside of the BSA, but within the marine assessment area (see Figure 3.3-1 in the 2009 SPW EIS/EIR). The following subsections discuss potential Proposed Project-related impacts on sensitive natural communities in the Proposed Project area.

Construction

Construction-Related Activities

The Proposed Project would not result in any new significant impacts nor substantially increase the severity of a previously analyzed impact on sensitive natural communities. Construction for the Proposed Project would be conducted entirely on upland lands in the SPW that are already developed or highly modified. None of the construction locations for any of the Proposed Project features contain any sensitive natural communities, including riparian habitats or sensitive marine environments. Therefore, construction activities for the Proposed Project would not result in any direct impacts on sensitive natural communities, including riparian habitats and sensitive marine habitats.

The mudflat at Berth 78–Ports O' Call (which is considered a depleted natural community) that is present within the BSA occurs outside of the LOD, approximately 75 feet east-northeast of where the proposed Amusement Attractions would be installed. Although the Harbor is located adjacent to the LOD, sensitive marine environments (e.g., eelgrass beds, kelp beds) occur farther south, in the shallow waters and near the breakwater of the Outer Harbor, approximately 1 mile to the southwest of the Project Site. Due to the distance between the construction sites and sensitive areas, temporary indirect impacts are unlikely, but may include dust and runoff from construction-related activities. However, implementation of avoidance and minimization measures that are nonspecific to biological resources, including general BMPs, would be implemented to minimize Proposed Project effects during construction. These BMPs, although not specific to biological resources, would reduce indirect impacts on surrounding habitats by implementing dust control, erosion and runoff control, and pollution prevention. None of the special aquatic habitats or sensitive natural communities identified in the 2009 SPW EIS/EIR are located within the Proposed Project's LOD.

208 E. 22nd Street Parking Lot

Paving the entirety of the 22-acre 208 E. 22nd Street Parking Lot site, with the exception of 1.92 acres of already paved parking and some landscaping along the eastern side, would result in the permanent removal of the ruderal vegetation in the open-lot portion of the 208 E. 22nd Street Parking Lot site. However, the open lot does not contain any sensitive natural communities, including riparian habitats. None of the special aquatic habitats or sensitive natural communities identified in the 2009 SPW EIS/EIR are located within the 208 E. 22nd St Parking Lot.

Operations

208 E. 22nd Street Parking Lot

The eastern portion of the 208 E. 22nd Street Parking Lot has already been established prior to the Proposed Project, but it would experience increased usage with the addition of paved spots in the western portion of the open lot, as well as from the addition of new public events (e.g., concerts, fireworks shows) at the SPW. Operation of the 208 E. 22nd Street Parking Lot could result in the production of human-produced trash that amasses in parking-lot trash receptacles from patrons, which could introduce elements to marine habitats that affect the water quality or deposit debris that is detrimental to sensitive marine habitats. However, these impacts are not substantially different from what was previously analyzed in the 2009 SPW EIS/EIR. In addition, as a part of Proposed Project operation, trash would be cleaned up after each event to prevent debris from entering the storm-drain system and ocean (see Section 2.4.1). Also, the Proposed Project would be required comply with the County's Low Impact Development Ordinance (Title 12, Chapter 12.84), which consists of site-design approaches and BMPs designed to address runoff and pollution at the source, including trash and debris, and would capture urban runoff and prevent it from entering the Harbor. The TMDL Guidelines and the *Statewide Water Quality Control Plan for Trash* also require measures to limit load allocations associated with trash. Storm drains within the Project Site would be compliant with these requirements and would implement full trash-capture systems. Furthermore, implementation of **MM-BIO-7**, *Trash Management and Post-Event Cleanup*, would ensure that trash and other debris resulting from Amphitheater events would be removed from nearby sensitive marine environments. With the implementation of **MM-BIO-7**, impacts on sensitive natural communities would remain less than significant, and there would be no substantial change from the findings in the 2009 SPW EIS/EIR. Consequently, the inclusion of the 208 E. 22nd Street Parking lot would not result in new significant impacts, substantially increase the severity of a previously analyzed impact, nor require new mitigation measures that were not already addressed in the 2009 SPW EIS/EIR.

Amphitheater and Fireworks

Amphitheater events and fireworks shows could both result in the production of trash and debris, which can find its way into nearby waters, where sensitive marine environments are present. Increased human presence from Amphitheater events and fireworks shows could result in the production of human-produced trash from patrons, which can amass in trash receptacles and litter the ground. Material used to support concert events (e.g., confetti) could also produce additional litter and debris. Fireworks shows would produce waste that could become deposited in the Harbor, and variable wind conditions could contribute to the size and scope of the fallout area, affecting sensitive marine environments outside of the launch area (see **Impact BIO-1** for details).

Several sensitive habitats are located within a 0.6-mile radius from the proposed fireworks-launch location. Eelgrass beds occur to the west of the barge, along the Cabrillo Beach north and Scout Camp locations, and account for approximately 14.1 percent of shallow water–habitat coverage in the summer months, when fireworks shows are expected to occur (Wood 2021). Eelgrass beds support a rich detrital food web and provide structure, food, and nursery habitats for a diverse range of fish and birds. Additionally, kelp beds can be found in shallow-water zones (i.e., breakwater) within the marine assessment area. Kelp beds can serve as nursey habitats for abundant fish species by providing refuge and small-sized prey. Both the eelgrass beds and kelp beds would be considered ESHAs under the CCA.

Chemical and physical debris from fireworks that could drift into this habitat may affect its overall quality. In addition to the proposed Amphitheater and fireworks events, the SPW is an active commercial and recreational area of the Port, located in an urban setting. The proposed fireworks shows could draw a significant number of visitors to the SPW, with many visitors viewing the fireworks show outside of the Amphitheater from developed shorelines, the proposed lawn area, and other nearby locations. Increases in visitors to this area would likely result in increased amounts of human-generated trash and debris from picnics, parties, and other gatherings along the shorelines that could wash into adjacent Harbor waters.

As a part of Proposed Project operation, trash would be cleaned up from the West Harbor area after each event to prevent debris from entering the storm drain system and ocean. The TMDL Guidelines and the *Statewide Water Quality Control Plan for Trash* also require measures to limit load allocations associated with trash. Storm drains within the Project Site would comply with these requirements and implement full trash-capture systems. The fireworks discharger would be required to comply with the requirements specified in NPDES General Permit No. CAG994007 (Los Angeles RWQCB, Order No. R4-2023-0180, adopted May 25, 2023), which specifies SOPs for all fireworks shows, including a BMP Plan that will include cleanup practices following fireworks shows. Where possible, sustainable products and practices, such as biodegradable confetti, would be used during events, and care would be taken to direct the spray away from the Main Channel (see Section 2.4.1). Furthermore, implementation of **MM-BIO-7**, *Trash Management and Post-Event Cleanup,* and **MM-BIO-10**, *Biodegradable Venue Products,* would ensure that trash and other debris resulting from Amphitheater events and fireworks shows would be removed from the Harbor and that biodegradable products would be used to reduce impacts on nearby marine environments. With the implementation of these measures and compliance with state and local trash ordinances and NPDES General Permit No. CAG994007 for fireworks displays, impacts on sensitive natural communities would be reduced to less than significant. This impact was not assessed in the 2009 SPW EIS/EIR.

Ferris Wheel/Amusement Attractions

The proposed locations for the Ferris wheel and the Amusement Attractions are in developed areas that do not contain any sensitive natural communities. None of the sensitive natural communities identified in the 2009 SPW EIS/EIR are located within the Proposed Project's LOD.

Previous Mitigation Measures Applicable to the Proposed Project

No previous mitigation measures from the 2009 SPW EIS/EIR are applicable to this SEIR because the Proposed Project does not include any in-water construction activities, pile driving, dredging, or enhancement activities within the Salinas de San Pedro Marsh.

New Mitigation Measures Applicable to the Proposed Project

MM-BIO-7, *Trash Management and Post-Event Cleanup*, and **MM-BIO-10**, *Biodegradable Venue Products*, provided in Section 3.3.8.5 above, would be required to reduce impacts on sensitive marine environments and are applicable to **Impact BIO-2** under the Proposed Project.

Significance after Mitigation

As discussed above, impacts relating to construction activities and the 208 E. 22nd Street Parking Lot were assessed in the 2009 SPW EIR/EIS. The Proposed Project would result in similar impacts as

those already deemed significant in the 2009 SPW EIS/EIR, but would not substantially increase the severity of those impacts. Implementation of avoidance and minimization measures that are nonspecific to biological resources, including general BMPs, would ensure that residual impacts on sensitive natural communities that result from construction-related activities and the 208 E. 22nd Street Parking Lot are reduced to a less-than-significant level.

For other issues that were not assessed in the 2009 SPW EIS/EIR, including impacts from Amphitheater events and fireworks shows, as discussed above, implementation of **MM-BIO-7**, *Trash Management and Post-event Cleanup*, and **MM-BIO-10**, *Biodegradable Venue Products*, as well as compliance with the requirements specified in NPDES General Permit No. CAG994007, would reduce impacts on sensitive natural communities that may result from debris and trash produced from Amphitheater events and fireworks shows.

3.3.8 Alternatives Impact Determination

3.3.8.1 Alternative 1 – No Project Alternative

Alternative 1 is defined as the No Project Alternative, in which conditions would remain based on the previously approved projects in both the 2009 SPW EIS/EIR and 2016 SPPM Addendum.

Alternative 1 would require **MM-BIO-1**, *Monitor and Manage Turbidity*, **MM-BIO-2**, *Conduct Nesting Bird Surveys*, and **MM-BIO-3**, *Avoid Marine Mammals*, to ensure that any project-related turbidity would be reduced and that nesting-bird surveys would occur and sound-abatement techniques be implemented to avoid and minimize impacts on special-status animal species that may reside within the Project Site or the surrounding area to less-than-significant levels with mitigation incorporated. Impacts would be similar to those of the Proposed Project.

3.3.8.2 Alternative 2 – Half-Capacity Amphitheater Alternative

Alternative 2 involves construction of an Amphitheater with a similar build to the Proposed Project, with an anticipated maximum capacity of 3,100 patrons per event. Alternative 2 would also incorporate **MM-BIO-2**, *Conduct Nesting Bird Surveys*, as well as **MM-BIO-7**, *Trash Management and Post-Event Cleanup*, **MM-BIO-8**, *Marine Mammal Monitoring During Fireworks Events*, **MM-BIO-9**, *California Least Tern Nesting Colony Monitoring During Fireworks Events*, **MM-BIO-10**, *Biodegradable Venue Products*, and **MM-BIO-11**, *Abandoned Nest Clearance Must Avoid Breeding Bird Season*, which would ensure that Amphitheater operations do not significantly affect special-status animal species and other sensitive biological resources within or surrounding the Project Site. Impacts would be similar to those of the Proposed Project.

3.3.9 Impact Summary

Implementation of the 2009 SPW EIS/EIR's **MM-BIO-2**, *Conduct Nesting Bird Surveys*, along with **MM-BIO-7**, *Trash Management and Post-Event Cleanu*p, **MM-BIO-8**, *Marine Mammal Monitoring During Fireworks Events*, **MM-BIO-9**, *California Least Tern Nesting Colony Monitoring During Fireworks Events*, **MM-BIO-10**, *Biodegradable Venue Products*, and **MM-BIO-11**, *Abandoned Nest Clearance Must Avoid Breeding Bird Season*, and compliance with the requirements specified in NPDES General Permit No. CAG994007, would reduce potential impacts on sensitive biological resources to a less-than-significant level. Table 3.3-4 presents a summary of the impact

determinations of the Proposed Project related to biological resources, which are described in detail in Sections 3.3.8 and 3.3.9 above.

Table 3.3-4. Summary of Potential Impacts on Biological Resources Associated with the Proposed Project

Environmental Impacts	Impact Determination	MM(s)	Impact After Mitigation
Proposed Project			
Impact BIO-1: Would the Proposed Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?	The 2009 SPW EIS/EIR findings of "significant and unavoidable impacts" remains valid for the Proposed Project.	**MM-BIO-2**, **MM-BIO-7**, **MM-BIO-8**, **MM-BIO-9**, **MM-BIO-10**, and **MM-BIO-11**	No new or substantially more severe significant impacts would occur.
Impact BIO-2: Would the Proposed Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or USFWS?	The 2009 SPW EIS/EIR findings of "significant and unavoidable impacts" remains valid for the Proposed Project.	**MM-BIO-7** and **MM-BIO-10**	No new or substantially more severe significant impacts would occur.
Alternative 1 – No Project Alternative			
Impact BIO-1: Would the Proposed Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?	The 2009 SPW EIS/EIR findings of "significant and unavoidable impacts" remains valid for the alternative.	**MM-BIO-1**, **MM-BIO-2**, and **MM-BIO-3**	No new or substantially more severe significant impacts would occur.
Impact BIO-2: Would the Proposed Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or USFWS?	The 2009 SPW EIS/EIR findings of "significant and unavoidable impacts" remains valid for the alternative.	**MM-BIO-1**, **MM-BIO-4**, and **MM-BIO-5**	No new or substantially more severe significant impacts would occur.
Alternative 2 – Half-Capacity Amphitheater Alternative			
Impact BIO-1: Would the Proposed Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?	The 2009 SPW EIS/EIR findings of "significant and unavoidable impacts" remains valid for the alternative.	**MM-BIO-2**, **MM-BIO-7**, **MM-BIO-8**, **MM-BIO-9**, **MM-BIO-10**, and **MM-BIO-11**	No new or substantially more severe significant impacts would occur.
Impact BIO-2: Would the Proposed Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional	The 2009 SPW EIS/EIR findings of "significant and unavoidable	**MM-BIO-7** and **MM-BIO-10**	No new or substantially more severe significant

Environmental Impacts	Impact Determination	MM(s)	Impact After Mitigation
plans, policies, regulations or by CDFW or USFWS?	impacts" remains valid for the alternative.		impacts would occur.

CDFW = California Department of Fish and Wildlife; EIS = Environmental Impact Statement; EIR = Environmental Impact Report; SPW = San Pedro Waterfront; USFWS = U.S. Fish and Wildlife Service

3.3.10 Mitigation Monitoring Program

The mitigation monitoring program outlined in Table 3.3-5 is applicable to the Proposed Project.

Table 3.3-5. Mitigation Monitoring Program

MM-BIO-2, *Conduct Nesting Bird Surveys*: This measure applies if construction is to occur between February 15 and September 1. Prior to ground-disturbing activities, a qualified biologist will conduct surveys for the presence of black crowned night herons, blue herons, and other nesting birds within Berth 78–Ports O' Call or other appropriate and known locations within the BSA that contain potential nesting-bird habitat. Surveys will be conducted 24 hours prior to ground disturbance and/or the clearing, removal, or grubbing of any vegetation. If active nests of species protected under the MBTA and/or similar provisions of the CFG Code (i.e., native birds including, but not limited to, black-crowned night heron) are located, then a barrier installed at a 50–100 foot radius from the nest(s) will be established, and the tree/location containing the nest will be marked and will remain in place and undisturbed until a qualified biologist performs a survey to determine that the young have fledged or the nest is no longer active.	
Timing	24 hours prior to ground disturbance or the clearing, removal, or grubbing of any vegetation, if construction is to occur between February 15 and September 1.
Methodology	The constructor contractor will retain a qualified biologist to conduct preconstruction nesting-bird surveys.
MM-BIO-7, *Trash Management and Post-Event Cleanup*: To prevent trash and debris produced by Amphitheater events from entering nearby waters and causing harm to sensitive marine environments and species, a Standard Operating Procedure (SOP) will be developed for trash management and post-event cleanup. The SOP will be reviewed by LAHD prior to implementation. At a minimum, the SOP must include the following. • Trash receptacles must be covered containers to deter animals (e.g., gulls) from easily accessing litter and prevent wind-blown trash from entering the Harbor. The number and placement of receptacles must be adequate to accommodate the event. • Following any events at the Project Site, trash will be removed from all venue locations including at the Amphitheater, parking lots, parks, surrounding walkways, and open areas as soon as practicable, and no later than 4 hours following the event. Trash and debris will be properly disposed of in accordance with all applicable regulations. • For events, the event organizer will be responsible for cleaning the 208 E. 22nd Street Parking Lot. For non-concert events and general use, the Port and/or event applicants will be responsible for cleaning the 208 E. 22nd Street Parking Lot. When used for Amphitheater concerts, the 208 E. 22nd Street Parking Lot will be subject to the requirement that all trash will be removed as soon as practicable, and no later than 4 hours following the event, as described in the above bullet point.	
Timing	Prior to and immediately following events, all clean-up must be completed as soon as practicable, and no later than 4 hours following the event.
Methodology	Per SOP for post-event cleanup.

<table>
<tr><td colspan="2">MM-BIO-8, Marine Mammal Monitoring During Fireworks Events: A qualified biologist will monitor marine mammals at the Bait Barge and the Fireworks Barge at Tenant expense during fireworks shows at least once per month for the first year of operation to determine whether event noises are negatively affecting marine mammals in the area. All monitoring will be conducted in accordance with a Marine Mammal Monitoring Plan that will be prepared by a qualified biologist and approved by LAHD in coordination with NMFS. A qualified biologist is a person who, by reason of their knowledge of the natural sciences and the principles of marine biology, acquired by marine biology education and experience, performs services including, but not limited to, consultation investigation, surveying, evaluation, planning, or responsible supervision of marine biology activities when those professional services require the application of biological principles and techniques.

Any observed disturbances will be reported to LAHD and NMFS within 24 hours. Within 30 days following the completion of each monitoring event, the qualified biologist will prepare a report for submittal to West Harbor, LAHD, and NMFS that details the findings of the monitoring results. This report will include an introduction/background, methods, results, discussion, and recommendations. Recommendations may include BMPs, additional monitoring, continuance of monitoring if impacts are observed, or other measures to ensure that no incidental harassment or other significant impact occurs at the monitoring sites, up to and including cessation of fireworks shows. If discernable negative changes in marine mammal behavior are observed, then consultation with NMFS will be initiated to develop measures to avoid negative impacts.</td></tr>
<tr><td>Timing</td><td>At the time of fireworks show, at least once per month.</td></tr>
<tr><td>Methodology</td><td>Monitoring of marine mammals at the Bait Barge and Fireworks Barge by a qualified biologist per the Marine Mammal Monitoring Plan. Document any discernible negative changes in marine mammal behavior. Report findings within 30 days of the monitoring. Suggest future program modifications if significant impacts are observed.</td></tr>
<tr><td colspan="2">MM-BIO-9, California Least Tern Nesting Colony Monitoring During Fireworks Events: LAHD least tern monitors will monitor the California least tern nesting colony at Pier 400 at Tenant expense during fireworks shows, when terns are present during the California least tern nesting season (i.e., March 15–August 31), to ensure that event noise does not negatively affect nesting birds. Monitoring will be performed by a qualified biologist.

Any nesting disturbances that result from the Amphitheater fireworks will be reported within 24 hours to LAHD, USFWS, and CDFW. Following the first nesting season of monitoring, results will be assessed and shared with USFWS and CDFW, who will determine whether further monitoring would be necessary. Within 30 days of each monitoring event, the qualified biologist will prepare a report for submittal to West Harbor, LAHD, USFWS, and CDFW that details the findings of the monitoring results. All monitoring will be conducted in accordance with a California Least Tern Nesting Colony Monitoring Plan that will be prepared by the LAHD in coordination with USFWS. This report will include an introduction/background, methods, life stage of California least tern present, observations of any stressors and negative bird behavior, and any recommendations. Recommendations may include BMPs, additional monitoring, continuance of monitoring if impacts are observed, or other measures to ensure that no significant impact occurs at the nesting site, up to and including cessation of firework shows. If discernable negative changes in bird behavior are observed, then consultation with USFWS and CDFW will be initiated to develop measures to avoid negative impacts on California least terns.</td></tr>
<tr><td>Timing</td><td>At the time of Amphitheater fireworks shows, during the California least tern nesting season (i.e., March 15–August 31, as applicable).</td></tr>
<tr><td>Methodology</td><td>Monitoring of the California least tern nesting colony at Pier 400 by an LAHD least tern monitor during Amphitheater fireworks shows. Future program modifications will be suggested if significant impacts are observed.</td></tr>
</table>

MM-BIO-10, *Biodegradable Venue Products*: Wherever reusable, compostable, and/or recyclable products are infeasible or not required by regulations, event organizers will invest in biodegradable products (e.g., confetti, decorations, packaging, single-use items) for all Amphitheater events to prevent injury and damage to surrounding sensitive marine environments and protect species from harmful materials (e.g., plastics, mylar, metals). Event organizers are encouraged to utilize reusable food ware, drinkware, napkins, and accessories for dine-in services, to the extent feasible. Event organizers are encouraged to procure paper products (i.e., napkins and event literature) that are unbleached and contain a minimum of 30-percent post-consumer recycled content.	
Timing	Prior to and during events.
Methodology	Invest in biodegradable products per guidance in **MM-BIO-10.**
MM-BIO-11, *Abandoned Nest Clearance Must Avoid Breeding Bird Season*: To avoid impacts on nesting birds protected under the MBTA and/or similar provisions of the CFG Code, clearance of abandoned bird nests on the Ferris wheel, Amusement Attractions, or other Proposed Project structures (e.g., Amphitheater) must occur outside of the breeding-bird season (February 15–September 1), unless cleared by a qualified biologist.	
Timing	Any nest clearance must occur outside of the breeding-bird season (February 15–September 1).
Methodology	General nest-clearance procedures will be developed that are compliant with protections under the MBTA and similar provisions of the CFG Code. This can include removal, such as scraping or pressure-washing, and disposal of unoccupied or partially constructed nests that do not contain eggs or nestlings.

BMP = best management practice; BSA = biological study area; CFG Code = California Fish and Game Code; CDFW = California Department of Fish and Wildlife; LAHD = Los Angeles Harbor District; MBTA = Migratory Bird Treaty Act; MM = mitigation measure; NMFS = National Marine Fisheries Service; SOP = Standard Operating Procedure; SPW = San Pedro Waterfront; USFWS = U.S. Fish and Wildlife Service.