City Council Meeting
06-08-26
Item 7.A.

Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Tatiana Holden, Assistant Public Works Director/City Engineer

Approved by: Joseph D. Irvin, City Manager

Date prepared: May 19, 2026 Meeting date: June 8, 2026

Subject: Civic Center Water Treatment Facility Phase 2 Update

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RECOMMENDED ACTION: Receive an update on the Civic Center Water Treatment Facility (CCWTF) Phase 2 project.

FISCAL IMPACT: Funding for this project's original design and engineering was included in previous fiscal years through a funding agreement with HRL Laboratories. The HRL agreement is fully encumbered. However, additional costs will be necessary to modify the design based on the revised Septic Prohibition Map. Staff will bring a funding recommendation to Council after the Memorandum of Understanding (MOU) between the City and the Regional Water Quality Control Board is approved and executed by all parties.

STRATEGIC PRIORITY: This item supports the City's 2025-2028 Strategic Plan. Goal 3: Advanced Infrastructure Resilience.

DISCUSSION: Under a Regional Water Quality Control Board resolution, Malibu must transition properties in the Civic Center area from onsite wastewater disposal system to a sewer system to improve the water quality in the Malibu Lagoon. The City completed Phase 1 of the sewer project in 2018 and subsequently undertook design efforts for Phase 2, which was originally supposed to be completed by 2024.

During Phase 2 design, sensitive cultural resources were identified in the Serra Retreat neighborhood, requiring changes to the proposed pipeline alignment, implementation boundaries, and schedule. The proposed 2026 MOU revision updates the implementation map, establishes interim requirements for Serra Retreat properties and extends the implementation schedule for Phase 2 and 3.

The 2026 MOU revision also corrects the Phase 3 triggering language. A prior draft would have required Phase 3 properties to connect to the CCWTF if water quality improvement targets were not achieved after completion of Phases 1 and 2. That language was inconsistent with the previously approved MOU framework and did not need to be revised based upon the necessary changes resulting from the discovery of the sensitive cultural resources.

Under the prior MOU framework, Phase 3 is required only if water quality monitoring shows that implementation of Phases 1 and 2 resulted in the bacteria and nitrogen reductions identified in the MOU. If those reductions are achieved, Phase 3 would proceed, except for any properties that the Regional Board concludes, and the City demonstrates, do not contribute to bacteria or nutrient impacts to Malibu Creek and Malibu Lagoon.

If the required water quality improvements are not achieved after Phases 1 and 2, then Phase 3 will not be required to be implemented. In that circumstance, the lack of improvement would support the conclusion that the remaining Phase 3 septic systems are not causing or contributing to the water quality issue being addressed by the prohibition.

Background

On November 5, 2009, the Regional Water Quality Control Board (Regional Board) approved a resolution prohibiting the use of septic systems in the Malibu Civic Center Area. On September 21, 2010, the State Water Resources Control Board (State Board) approved the action taken by the Regional Board, thereby amending the State Basin Plan that included the septic prohibition. The State Basin Plan established certain dates by which properties in the Civic Center area were required to cease discharge and provided for a municipally owned wastewater treatment facility to be constructed. All properties within the Civic Center area were to be connected to the wastewater treatment facility.

In 2011, the City, Regional Board, and State Board entered into a Memorandum of Understanding (MOU) regarding phased implementation of the Basin Plan Amendment. The MOU established three implementation phases, including deadlines for connection to the Civic Center Water Treatment Facility and related monitoring and reporting requirements.

The MOU has been revised several times to update the implementation schedules and requirements for the three phases. Phase 1 was completed in 2018. The 2017 MOU revision required Phase 2 properties to be connected to the CCWTF by November 5, 2024, and provided that Phase 3 would be evaluated after completion of Phases 1 and 2 and review of water quality monitoring results.

On September 29, 2025, staff presented the Council with Amendment No. 4 updating the implementation schedule and connection date to CCWTF for all properties within the Phase 2 boundary. During the meeting, the changes to the MOU proposed by the

Regional Board for implementation of Phase 3 of the project were discussed. Specifically, ***Section C. Phase 3., Subsection 2. Next Steps if Reduction Targets are Not Met*** of the MOU changed the Phase 3 triggering criteria.

The 2017 revision of the MOU stipulated that all properties within the Phase 2 boundary shall be connected to the CCWTF by November 5, 2024. The MOU also included a potential Phase 3, which would be evaluated after completion of Phases 1 and 2 and review of water quality monitoring results. Under that framework, Phase 3 would proceed only if water quality monitoring showed that implementation of Phases 1 and 2 resulted in the bacteria and nitrogen reductions identified in the MOU, except for any properties that the Regional Board concludes, and the City demonstrates, do not contribute to bacteria or nutrient impacts to Malibu Creek and Malibu Lagoon.

Phase 3 implementation is dependent upon whether water quality improvement targets are achieved following completion of Phases 1 and 2. The 2025 draft amendment modified the Phase 3 triggering criteria by requiring Phase 3 properties to connect to the CCWTF if the required reductions in bacteria and nitrogen were not achieved after Phases 1 and 2. That language was inconsistent with the previously approved MOU framework. The 2026 draft amendment corrects the Phase 3 triggering criteria by restoring the prior approach: if the required water quality improvements are achieved, Phase 3 would proceed, except for properties demonstrated not to contribute to bacteria or nutrient impacts; if the required improvements are not achieved, Phase 3 would not be required to proceed.

The project history and next steps are described below.

<u>CCWTF Phase 1</u>

Design was completed in June 2015, and construction was finished in September 2018. All Phase 1 properties were connected to the CCWTF before the MOU deadline of September 30, 2018. Phase 1 included the construction of the new CCWTF wastewater treatment facility and 32,000 linear feet of wastewater and recycled water lines. Phase 1 also included the construction of 2 wastewater pump stations, Bluffs Park, and Legacy Park and 2 injection wells on Malibu Road.

Civic Center Phase 1



CCWTF Treatment Process

The CCWTF uses a Membrane Bioreactor (MBR) system to process wastewater. The MBR treatment process has a smaller footprint than conventional wastewater treatment systems and produces high-quality effluent capable of meeting the Regional Board's stringent water quality requirements. The system also allows for future expansion, configuration flexibility, and reliable operation.

The treatment process includes ultraviolet (UV) disinfection, which allows treated wastewater to be used as recycled water. Treated and disinfected wastewater is conveyed to the recycled water distribution system for irrigation use by property owners within the prohibition zones.

CCWTF Phase 2 Design

Shortly after the completion of the CCWTF Phase 1, the City started the design process of Phase 2. On April 8, 2019, the City entered into an agreement with HRL to provide funding for the design and engineering assessment of the CCWTF Phase 2. The agreement provides for HRL to fund the project design and the development of an assessment district and then be reimbursed after an assessment district for Phase 2 is formed and bonds are issued. If formation of an assessment district for Phase 2 is not successful, the agreement provides that HRL will have the opportunity to form its own

assessment district and either apply the funds provided as a credit or be reimbursed by the City for costs incurred on the design for the entire Phase 2 project.

On August 12, 2019, Council approved a professional services agreement with Woodard & Curran for engineering design of CCWTF Phase 2. Woodard & Curran designed the facility upgrades necessary to accommodate additional wastewater flow from Phase 2 properties, including expansion of the existing bioreactor structure, installation of new membrane and disinfection units, and additional mechanical and electrical equipment. Woodard & Curran also designed the wastewater collection and recycled water system expansion, including extensions to portions of the Serra Retreat neighborhood, Malibu Colony, condominiums on Civic Center Way, and HRL Laboratories. That design was substantially completed but must be modified based on the revised implementation boundaries and the need to avoid sensitive cultural resources in the Serra Retreat neighborhood.

CCWTF Phase 2 Environmental Impact Report

On January 12, 2015, the Council certified the Environmental Impact Report (EIR), which provided project-level analysis for Phase 1 and programmatic-level analysis for Phases 2 and 3. A project-level CEQA analysis for Phase 2 was later completed, and an addendum to the certified CEQA document was prepared. On February 1, 2021, the Planning Commission approved the addendum.

Because it has not yet been determined whether Phase 3 will be required, no additional CEQA documentation has been prepared for that phase. If Phase 3 is required, additional CEQA analysis will be conducted. The revised Phase 2 implementation boundaries and design changes may also require additional CEQA review or an amendment to the project's Coastal Development Permit.

CCWTF Phase 2 Funding

In December 2020, the City submitted a project application to the State Water Board for financial assistance under the Clean Water State Revolving Fund Program (SRF). On May 3, 2021, the City was notified that the CCWTF Phase 2 was included on the State Water Board's funding list under the CWSRF program.

SRF provides agencies with low-interest rate loans for wastewater projects. The SRF program has financing terms for up to 30 years, no funding limits and the repayment begins one year after the completion of construction. The City previously used this SRF financial assistance and State grants to finance Phase 1.

Shortly after the City was notified that the CCWTF Phase 2 project was eligible for SRF funding, the State Water Board began the project environmental review. The State Water Board reviewed the City's EIR documents and a Historic Properties Identification Report (HPIR). During this review, the State Water Board determined that additional cultural

resources soil investigations were needed within the project limits. In July 2022, the City discovered additional cultural resources along the proposed wastewater alignment in the Serra Retreat neighborhood.

Modification of Phase 2

The cultural resource discovery in the Serra Retreat neighborhood resulted in a substantial delay in the Phase 2 design and implementation. Staff conducted several meetings with the Regional Board about the proposed wastewater collection system and recycled water system alignment and installation. Based upon the type of cultural resource findings located in the Serra Retreat neighborhood, the City and the Regional Board agreed that the project cannot proceed as designed with the installation of a new pipeline within the Serra Retreat neighborhood.

Because construction of a new wastewater collection line through Serra Retreat should be avoided due to sensitive cultural resources, the proposed MOU amendment includes a separate process for Serra Retreat properties. Under this process, the City would conduct a feasibility study to evaluate alternative methods for reducing nitrogen and bacteria loading from those properties without constructing the previously proposed wastewater collection line through the cultural resource area.

The feasibility study would evaluate alternatives such as advanced onsite wastewater treatment systems, packaged treatment plants, or other methods that would allow Serra Retreat properties to meet applicable water quality objectives. After the study is completed, the City would implement the study recommendations, and affected property owners would be required to install or connect to the recommended treatment measures by the deadlines established in the MOU.

In November 2024, the Regional Board and State Water Board developed a proposed modification to the MOU with revised implementation deadlines. The MOU modification was anticipated to be approved by both boards before returning to the City for final approval. However, the Franklin Fire on December 9, 2024, and the Palisades Fire on January 7, 2025, further delayed the MOU modification process.

Over the last several months, City staff and Regional Board staff further refined the proposed MOU. The proposed revisions to CCWTF Phases 2 and 3 include the following:

- Properties along Malibu Road that were included in Phase 3 will be moved into Phase 2.
- Phase 3 (see Attachment 1 - Revised Malibu Prohibition Map) is to be comprised of Phase 3 – Area I, Phase 3 – Area II and Phase 3 - Serra Retreat.
- City shall conduct a Serra Retreat feasibility study to evaluate wastewater treatment alternatives to reduce nitrogen and bacteria loading, such as advanced onsite wastewater treatment systems, packaged treatment plants or other methods.

The proposed revisions do not significantly increase the amount of wastewater flow for Phase 2.

MOU Amendment No. 4

Based upon the proposed revisions to Phase 2, MOU Amendment No. 4 would modify the following deadlines:

- **July 23, 2026** – Regional Board consideration of Amendment No. 4
- **August 24, 2026** – Amendment No. 4 to be brought to City Council for approval
- **April 19, 2028** - Complete the redesign of Phase 2, addendum to the EIR and amendment to the project's Coastal Development Permit
- **August 16, 2028** – Complete Serra Retreat feasibility study
- **October 23, 2028** – Complete formation of Phase 2 assessment district
- **March 23, 2029** – Begin construction
- **June 16, 2030** – Completion of construction
- **September 6, 2030** – Complete Serra Retreat interim measures
- **March 23, 2031** – Complete Phase 2, including successful startup and connection of private wastewater laterals to the CCWTF
- **March 23, 2031 – March 23, 2032** – Water quality testing and reporting
- **March 22, 2035** – Phase 3 completion (if necessary)

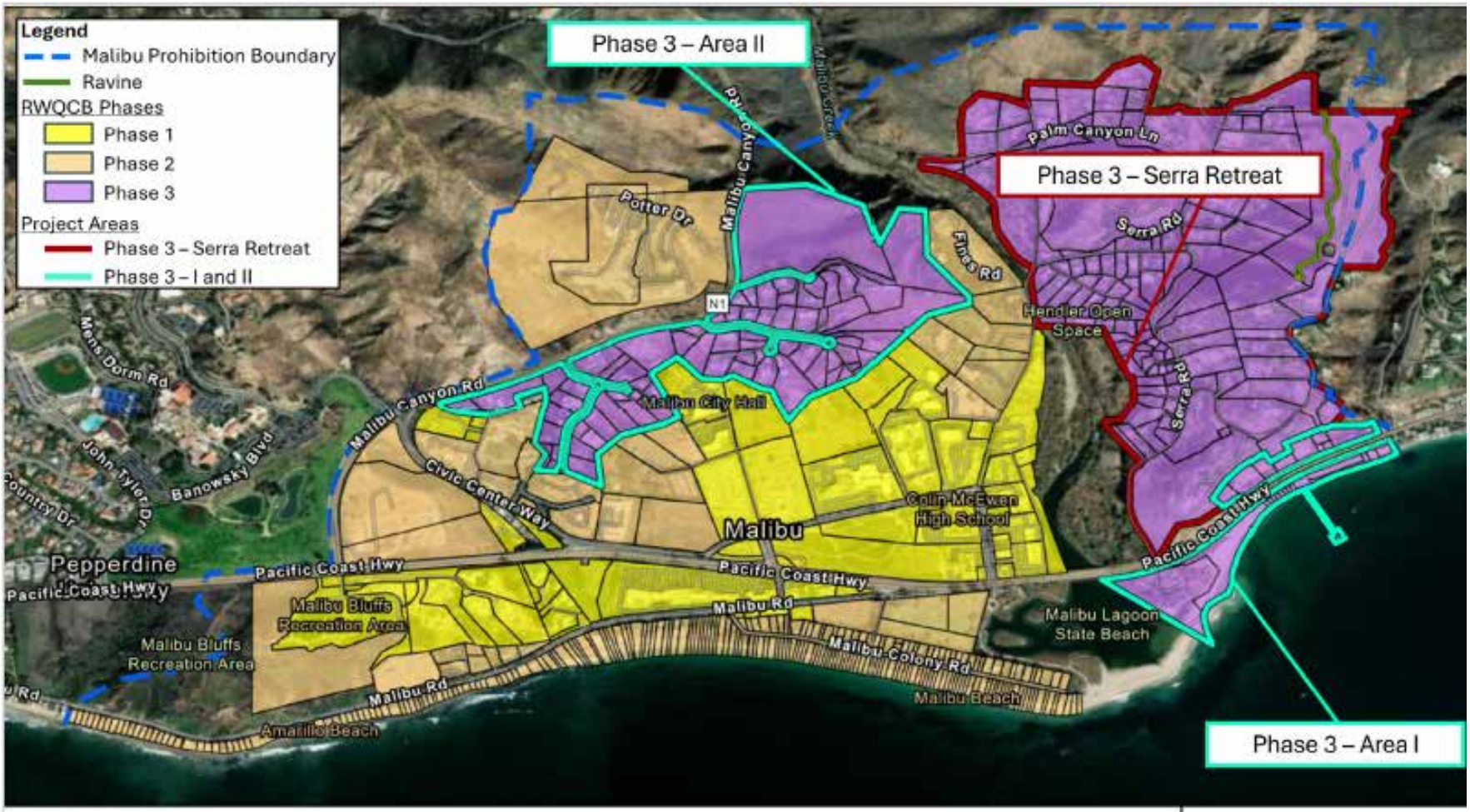
Next Steps

The Regional Board has scheduled this item for a public hearing date on July 23, 2026. If the Regional Board approves this MOU, staff will bring MOU Amendment No. 4 to Council for final approval. Additional funding will be required to modify the design based upon Phase 2 revisions. That request will be brought to Council's attention when MOU Amendment No. 4 is brought to Council.

ATTACHMENTS:

1. Malibu Prohibition Phased Map
2. Tentative Revised 2026 MOU (MOU Amendment No. 4)
3. Implementation Schedule

Attachment 1



Malibu Prohibition Phased Map

Source: Esri, Vantor, Earthstar Geographics, and the GIS User Community, Esri, NASA, NGA, USGS, FEMA, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

2026

Attachment 2

TENTATIVE REVISED 2026 MOU

MEMORANDUM OF UNDERSTANDING

(REVISED ON DECEMBER 4, 2014, FEBRUARY 2, 2017, NOVEMBER 5, 2021, AND July 23, 2026)

BETWEEN THE CITY OF MALIBU

AND

THE REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION

AND THE STATE WATER RESOURCES CONTROL BOARD

REGARDING

PHASED IMPLEMENTATION OF BASIN PLAN AMENDMENT PROHIBITING ON-SITE WASTEWATER DISPOSAL SYSTEMS

IN THE MALIBU CIVIC CENTER AREA

MEMORANDUM OF UNDERSTANDING

REGARDING PHASED IMPLEMENTATION OF BASIN PLAN AMENDMENT PROHIBITING ONSITE WASTEWATER DISPOSAL SYSTEMS IN THE MALIBU CIVIC CENTER AREA

This Memorandum of Understanding (MOU) supersedes the MOU originally signed in August 2011 and revised most recently in November 2021, and is entered into by and between the CITY OF MALIBU (City) on the one hand and the REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION, and the STATE WATER RESOURCES CONTROL BOARD on the other hand (together the Water Boards), collectively referred to herein as the "Parties" or individually as "Party."

WHEREAS, On November 5, 2009, over the City's objections, the Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) adopted Resolution R4-2009- 007 approving an amendment to Chapter IV of the Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan), to prohibit on-site wastewater disposal systems (OWDSs) in the Malibu Civic Center Area, as defined in Resolution R4-2009-007, (Basin Plan Amendment).

WHEREAS, On September 21, 2010, over the City's objections, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2010-0045 approving the Basin Plan Amendment.

WHEREAS, On December 23, 2010, the Office of Administrative Law approved the regulatory provisions of the Basin Plan Amendment, the final step for the amendment to take effect.

WHEREAS, On August 19, 2011, the Parties entered into an MOU (2011 MOU) to memorialize the Parties' agreement to coordinate in the implementation of a wastewater treatment plan for the Malibu Civic Center Area, as defined in the Basin Plan Amendment, that employs both a plan and schedule to construct one or more centralized wastewater treatment facilities (Facility) in phases in the Malibu Civic Center Area and a comprehensive regulatory program with respect to OWDSs.

WHEREAS, the Basin Plan Amendment prohibits all new OWDSs in the Malibu Civic Center Area and prohibits the discharge from existing OWDSs based on a phased schedule to cease discharges from Phase One systems by November 5, 2015, and Phase Two systems by November 5, 2019. The Basin Plan Amendment does not prevent repairs, maintenance, and upgrades to existing OWDSs, provided that they do not expand the capacity of the systems or increase flows of wastewater.

WHEREAS, in October 2010, the City and the Water Boards entered into a tolling agreement by which they agreed to extend the time within which the City must bring an action against the Water Boards challenging their actions to approve the Basin Plan Amendment, which expired in October 2011. The purpose of the tolling

agreement was to afford the parties an opportunity to reach agreement on a phased implementation boundaries and other matters related to the substance of Basin Plan Amendment. This MOU extends the tolling agreement while the MOU is in effect.

WHEREAS, On December 4, 2014, the MOU was subsequently revised (2014 MOU) to provide additional time to complete Phase One by June 30, 2017, and Phase Two by November 5, 2022.

WHEREAS, On February 2, 2017, the 2014 MOU was subsequently revised (2017 MOU) to extend the Phase One competition date from June 30, 2017, to September 30, 2018, and Phase Two completion date from November 5, 2022, to November 5, 2024.

WHEREAS, On November 5, 2021, the 2017 MOU was subsequently revised (2021 MOU) to extend the completion date of formation of an assessment district within Malibu Civic Center Area in Phase Two from November 5, 2021, to June 30, 2022, because the City required additional time to seek and obtain state and federal grants and other funding sources. The 2021 MOU did not extend the final completion date of November 5, 2024, for Phase Two.

WHEREAS, a significant Native American cultural resource was discovered in the Malibu Civic Center Area in 2022 and 2023, requiring redrawing of the Phase Two and Phase Three boundaries to avoid disruption to the resource; redesigning the Phase Two wastewater collection, transmission, and treatment system; and changing the schedule for completing the Phase Two tasks.

WHEREAS, the Parties have reached an agreement to revise the boundaries of Phase Two and Phase Three as depicted in the Phased Implementation Boundary Map in Exhibit A to this MOU, and to extend the Phase Two completion date from November 5, 2024, to March 23, 2031, and Phase Three from November 5, 2028, to March 22, 2035, and wish to memorialize the agreement in this MOU.

WHEREAS, the Parties have provided interested persons with an opportunity to comment on the MOU and have considered those comments prior to execution of the MOU by the Parties.

NOW, THEREFORE, the Parties do hereby agree as follows:

ARTICLE I - Purpose and Effect of MOU

A. **Purpose of MOU:** The purpose of this MOU is to further the objectives of the Porter-Cologne Water Quality Control Act and to memorialize the Parties' agreement to coordinate in the implementation of a wastewater treatment plan (as detailed below) in the Malibu Civic Center Area, as defined in the Basin Plan Amendment, that employs both a plan and schedule to construct one or more state-of-the-art centralized wastewater treatment facilities in the Malibu

Civic Center Area and a comprehensive regulatory program with respect to OWDSs.

B. **Effect of MOU:** The Parties agree to implement the prohibitions established in the Basin Plan Amendment in the manner set forth in this MOU. As long as the City is in compliance with the schedule set forth in this MOU, the Los Angeles Water Board will not amend the Basin Plan Amendment inconsistent with this MOU. The Parties agree to maintain a tolling agreement as long as this MOU remains in effect.

C. **Authority to Enter into MOU:** The City has authority to enter into this MOU, which is within the scope of its police powers. The Water Boards have authority to enter into this MOU pursuant to California Water Code section 13225, subsections (a), (b), and (j).

ARTICLE II - **Responsibilities of City**

The City shall implement a wastewater treatment plan (Plan) in the Malibu Civic Center Area consisting of the following phases.

A. **Phase One:** By **September 30, 2018,** for the wastewater discharge of those properties within the boundaries of the yellow area shown on the map of the Malibu Civic Center Area attached hereto as Exhibit A and incorporated herein by this reference (Boundary Map), the City shall design and construct a central Wastewater Treatment Facility. In order to fund the construction of the Wastewater Treatment Facility, it is necessary that an assessment district be approved and formed in accordance with all applicable laws, including but not limited to Prop 218, which includes the property owners served by Phase One. Once approved, all property owners within the approved assessment district are required to connect to the Wastewater Treatment Facility. The City's Wastewater Treatment Facility may consider the use of deep well for groundwater injections without reverse osmosis as a method of dispersal of effluent from the Wastewater Treatment Facility. The City must obtain Waste Discharge Requirements (WDRs), for the Wastewater Treatment Facility, and all water must be treated to meet or exceed the requirements of applicable laws, regulations, and policy, including the Porter-Cologne Water Quality Control Act, the federal Clean Water Act, the Basin Plan, standards for advanced wastewater treatment set forth in Title 22 California Code of Regulations, Division 4, and total nitrogen of 10 mg/L. The City shall work in coordination with the Los Angeles Water Board and shall comply with the following deadlines to complete Phase One of the Plan.

1. By **September 30, 2011,** submit a schedule and list of public outreach meetings and materials developed to inform the public about the development of a wastewater treatment facility.

2. By **December 31, 2011,** complete and submit to the Los Angeles Water Board a recycle/reuse/storage study which shall identify the potential location and options to maximize the reuse of the Title 22 effluent, including the evaluation of the use of storage infrastructure. The study shall provide recommended water recycling goals and storage volume targets.

3. By **June 30, 2012,** complete and submit to the Los Angeles Water Board a conceptual groundwater injection plan that is based on field testing and modeling.

4. By **March 31, 2015,** complete and submit the certified Environmental Impact Report for the project in compliance with the California Environmental Quality Act (CEQA).

5. By **June 30, 2015,** complete and submit the design for the Wastewater Treatment Facility, which shall include the facility layout, electrical and pumping requirements, sewer line plans and profiles, disposal well design. Also submit to the Los Angeles Water Board a complete report of waste discharge pursuant to the California Water Code.

6. By **September 30, 2015,** complete the formation of an assessment district for all properties within the Malibu Civic Center Area Phase One and provide that information to the Water Board.

7. By **September 30, 2015,** complete a plan to obtain all funding and property necessary to complete the Phase One project.

8. By **October 30, 2015,** complete and release a Bid Package for construction of the Phase One Wastewater Treatment Facility.

9. By **December 31, 2015,** complete contractor selection and initiate construction of the Phase One Wastewater Treatment Facility.

10. By **September 30, 2018,** complete the Phase One project, including successful startup of the Phase One Wastewater Treatment Facility and the connection of all properties within the Phase One boundaries to the Wastewater Treatment Facility. The City is required to operate the Facility in compliance with the WDRs.

B. **Phase Two:** By **March 23, 2031,** the City shall require all those developed properties, within the beige-colored area shown on the attached Phases Two and Three Implementation Boundary Map (Exhibit A), to be connected to the centralized Wastewater Treatment Facility. The Facility shall be the same Facility as described in Phase One and subject to waste discharge requirements issued by the Los Angeles Water Board. In order to fund the

construction of the Wastewater Treatment Facility improvements and connections thereto, it is necessary that an assessment district be approved and formed in accordance with all applicable laws, including but not limited to Prop 218, which includes the property owners served by Phase Two. Once an assessment district is formed, all property owners within the approved assessment district in Phase Two area are required to connect to the Wastewater Treatment Facility.

The City shall comply with following deadlines to complete Phase Two of the Plan:

1. By **February 18, 2028,** complete and certify a subsequent or supplement Environmental Impact Report, if required, pursuant to CEQA.

2. By **April 19, 2028,** complete and submit to the Los Angeles Water Board a Design for Phase Two Wastewater Treatment Facility, which shall consist of facility layout, electrical and pumping requirements, sewer line plans and profiles, disposal well design. Also submit to the Los Angeles Water Board a complete report of waste discharge, if necessary, pursuant to the California Water Code.

3. By **October 23, 2028,** complete the formation of an assessment district for all Phase Two properties within the Malibu Civic Center Area and provide that information to the Los Angeles Water Board.

4. By **May 28, 2028,** complete and release a Bid Package for construction of the Phase Two Wastewater Treatment Facility.

5. By **March 23, 2029,** complete contractor selection and initiate construction of the Phase Two Wastewater Treatment Facility.

6. By **March 23, 2031,** complete Phase Two project, including successful startup of the Phase Two Wastewater Treatment Facility and the connection of all properties within the Phase Two boundaries to the Wastewater Treatment Facility. The City is required to operate the Wastewater Treatment Facility in compliance with the WDRs.

During Phase Two, the City shall require properties in the Serra Retreat Area, shown within the red-colored outline in Exhibit A to implement interim measures to reduce nitrogen and bacteria loadings prior to the start of Phase Three. The City shall conduct a feasibility study to evaluate alternatives, including advanced onsite wastewater treatment systems (AOWTSs) at individual properties and/or packaged treatment plant(s) to serve multiple properties, and provide estimated implementation timelines. The study shall

specifically consider properties in proximity to Malibu Creek for connection to a packaged plant(s), with an emphasis on utilizing aboveground sewage collection piping to minimize disturbance to Native American resources. The City shall submit a workplan for the study for Executive Officer approval by **August 22, 2027.** The City shall submit a draft report of study results and preliminary recommendations for Executive Officer approval by **August 16, 2028**. Upon Executive Officer approval, the City shall begin implementing the study's recommendations, either by requiring properties within the Serra Retreat Area to install AOWTS or connect to a package treatment plant(s) **by June 13, 2029**.

All interim measures, whether individual AOWTS or package treatment plant(s), shall conform to the requirements of the City of Malibu's Local Agency Management Program (LAMP) and shall be completed by **September 6, 2030.** Property owners must secure building permits and operating permits per City ordinances. These systems must be inspected every three years by a City-certified AOWTS inspector. Additionally, the City shall amend its LAMP and ordinances to require property owners in the Serra Retreat Area to hire a qualified professional to conduct quarterly effluent sampling and analysis for the following parameters: total suspended solids, total nitrogen, including organic nitrogen, ammonia nitrogen, nitrate nitrogen, and nitrite nitrogen, total phosphorus, and Fecal Indicator Bacteria.

C. Phase Three:

1. The City will begin connecting parcels in the Phase Three purple-colored area (Exhibit A) to the Wastewater Treatment Facility, if necessary, following the completion of Phases One and Two after completion of a water quality sampling program. This program will assess whether Phases One and Two have effectively reduced bacteria and nitrogen concentrations in Malibu Lagoon, as defined below.

i. Bacteria reduction: Within two years after Phase One is completed, there should be a one-log reduction in bacteria concentration, measured as Most Probable Number (MPN) per 100 milliliters (mL), on a consistent basis (75% of samples). Within one year after Phase Two is completed, there should be an additional one-log reduction in bacteria concentration (as MPN/100 mL). Sampling should occur at a minimum of six locations in Malibu Lagoon, as agreed upon by the City and the Los Angeles Water Board, covering two dry seasons. Baseline sampling data shall be collected 12 months prior to completion of the treatment system.

ii. Nitrogen reduction: Within two years after Phase One is completed, there should be a 50% reduction in total nitrogen concentration (measured as mg/L) on a consistent basis (75% of samples). Within

one year after Phase Two is completed, there should be an additional 50% reduction in total nitrogen concentration (in mg/L). Sampling should include a minimum of six locations within the Malibu Lagoon, as agreed upon by the City and the Los Angeles Water Board, covering two dry seasons. Base line sampling data shall be collected 12 months prior to completion of the treatment system.

2. Should the City and the Los Angeles Water Board determine that the implementation of Phase One and Phase Two has resulted in bacteria and nitrogen reduction as set forth in II.C.l above, the City shall proceed with implementation of Phase Three excluding any properties that the Los Angeles Water Board concludes and the City has demonstrated to have no contribution to bacteria or nutrient impacts to the Malibu Creek and Malibu Lagoon. Phase Three shall be completed and all non-excluded properties connected to the Wastewater Treatment Facility by **March 22, 2035.**

3. Between the date of the signing of this MOU and upon the determination that a Phase Three is or is not necessary, the City may authorize property owners within Phase Three areas to modify existing buildings upon installation of a filtration and disinfection system to their existing OWDSs in accordance with City regulations and waste discharge requirements only if the City finds that the modification is consistent with the protection of public health and the Basin Plan Amendment and if the property owner is notified of the provisions of the Basin Plan Amendment and the MOU. On March 31 and September 30 of each year, the City shall send written reports of any modifications approved in Phase III to the Los Angeles Water Board.

D. Water Sampling:

The City shall conduct water quality monitoring, including baseline monitoring in both the wet season and dry season, prior to startup of Phase Two and quarterly thereafter, to evaluate the effectiveness of the Wastewater Treatment Facility, as described in paragraph C above, throughout the project phases, which shall be concluded no later than **March 22, 2032**. The baseline water quality monitoring includes monitoring of surface water quality at ten locations and groundwater quality in nine shallow and deep groundwater wells, as required by the Monitoring and Reporting Program (MRP) No. CI 10042, issued by the Los Angeles Water Board in 2015.

E. Quarterly Monitoring Reports:

The City shall submit electronic quarterly progress reports in pdf format by January 30th, April 30th, July 30th, and October 30th and an annual summary report by January 30th of each year to the State Water Board GeoTracker database until such time that the Los Angeles Water Board determines that

compliance with the prohibitions has been achieved.

ARTICLE III - Responsibilities of the Water Boards

A. **No Amendments:** The Water Boards agree that they will not adopt any amendment to the Basin Plan Amendment, as long as this MOU is in effect, except that the Parties understand that amendments to the Basin Plan Amendment may be necessary to implement Phase Three and will cooperate to achieve the purposes of this MOU.

B. **Failure to Comply/No Third Party Beneficiary:** The Water Boards agree that they will not enforce the prohibitions against the property owners set forth in the Basin Plan Amendment so long as the City is in substantial compliance with the Plan set forth in Article II of this MOU and the property owners are in compliance with the Basin Plan Amendment conditions, applicable City requirements, and waste discharge requirements or a waiver issued by the Los Angeles Water Board. Notwithstanding the foregoing, this MOU does not create any rights in or obligation to any third party and may only be enforced by the Parties to this MOU.

C. **WDRs Application Processing:** The Los Angeles Water Board agrees to process and issue WDRs in a timely manner so not to delay the City's ability to meet the deadlines set forth in this MOU, and the permitting deadlines set forth in this MOU shall be extended by the amount of time beyond six months that the City's application for WDRs is pending before the Water Boards. The Los Angeles Water Board's decision to issue WDRs will be based on the administrative record after a public hearing and nothing in this MOU prejudges its decision.

D. **Funding Assistance:** The Los Angeles Water Board agrees to assist the City in obtaining funding for the Wastewater Treatment Facility upgrade and any associated water quality monitoring.

E. **Studies:** The City will continue to supply the Los Angeles Water Board with any ongoing or new water quality studies and monitoring reports that are completed within or near the Prohibition Area. The Los Angeles Water Board will consider all relevant available information in determining whether to remove any properties within Phase Three from the prohibition boundaries; specifically and without limitation, the Parties agree to evaluate whether new reports provide sufficient scientific evidence that inclusion of certain areas within Phase Three is no longer justified within the Prohibition boundary. The Los Angeles Water Board and the City intend to work cooperatively on any necessary amendment to the Basin Plan Amendment.

ARTICLE IV - Tolling

A. **Tolling Extended:** The Parties agree that the period during which the City must bring an action against the Water Boards challenging any aspect of the Water Board actions, including but not limited to the procedures the Water Boards followed and its environmental review under the CEQA, is hereby tolled and extended as of the effective date of this MOU for as long as this MOU is in effect, unless the tolling agreement is terminated earlier or extended by the Parties (the "Tolling Period"). The tolling agreement became effective on the date this MOU was originally signed by the City on August 11, 2011.

B. **No Time-Bar Defenses:** The Parties further agree that there shall be a suspension of any and all applicable statutory limitations and non-statutory periods, including, without limitation, the equitable doctrine of laches, which may otherwise apply to the City's claims, during the Tolling Period.

C. **No Revival of Stale Claims:** Nothing in this Agreement shall revive any claim, which, as of the commencement of the Tolling Period, would have been barred by any applicable statute of limitations.

D. **No Admission:** The entry into this Agreement by the Parties shall not be construed to represent any admission by any Party with respect to the subject or sufficiency of any Party's claims or any defenses thereto.

E. **Lawsuits:** The City agrees that while this MOU is in effect it will not file any litigation regarding the Basin Plan Amendment against the Water Boards, nor will it join in or support any third-party lawsuits against the Water Boards that may arise from the implementation of this MOU or the adoption of the Basin Plan Amendment.

ARTICLE V - Term of MOU

A. **Term of MOU:** The term of this MOU shall begin upon the date of the last signature below and shall terminate on completion of Phase Three, unless terminated earlier pursuant to this Article. During the term of this MOU, the Parties agree to negotiate, in good faith, modifications to the MOU that may be reasonably necessary to assure implementation of the Plan, including, but not limited to, the following changed circumstances:

1. There is a material change in the regulatory framework for wastewater management or water quality standards relevant to the implementation of the Plan in the Malibu Civic Center Area or the Basin Plan Amendment that would require additional time to implement; or

2. There is a material change in the cost or other impediment that warrants the Parties' attention in order to assure successful implementation of the

Plan in the Malibu Civic Center Area that would require additional time to implement.

B. Termination: This MOU may be terminated by the City, the State Water Board, or the Los Angeles Water Board by giving 45 days prior written notice in accordance with the notice provisions in Article VI(A) hereof. Said termination shall be effective only upon a duly noticed public meeting conducted by the City, the State Water Board, or the Los Angeles Water Board.

ARTICLE VI - General Provisions

A. Notices: Any notices or other communication required or permitted by this MOU shall be in writing and shall be delivered to the Representatives of the Party at the addresses set forth below. Parties shall promptly notify each other of any change of contact information provided below. Written notice shall include notice delivered via email. A notice shall be deemed to have been received on (a) the date of delivery, if delivered by hand during regular business hours, or by confirmed facsimile or by email; or (b) on the third business day following deposit in the United States mail, postage prepaid to the addresses set forth below.

To the State Water Board:

Eric Oppenheimer, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
Email: Eric.Oppenheimer@waterboards.ca.gov

Michael A.M. Lauffer, Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
Email: michael.lauffer@waterboards.ca.gov

To the Los Angeles Water Board:

Susana Arredondo, Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. Fourth Street, Suite 200
Los Angeles, CA 90013
Email: Susana.Arredondo@Waterboards.ca.gov

James Kang, Ph.D., P.E.
Manager, Groundwater Permitting, Land Disposal, and Commercial, Industrial, and Institutional Stormwater Permitting Section
Los Angeles Regional Water Quality Control Board
320 W. Fourth Street, Suite 200
Los Angeles, CA 90013
Email: jim.kang@waterboards.ca.gov

mailto:Amelia Carder, Attorney III
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814
Email: Amelia.Carder@Waterboards.ca.gov

mailto:**To the City:**

Marianne Riggins, City Manager
23825 Stuart Ranch Road
Malibu, CA 90265
Email: SMcClary@malibucity.org

Rob DuBoux, Public Works Director/City Engineer
Public Works Department
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265 Email: duboux@malibucity.org

Trevor Rusin, Interim City Attorney
Best Best & Krieger
300 South Grand Ave., 25th Floor
Los Angeles, CA 90071
Email: trevor.rusin@bbklaw.com

B. **Relationship of the Parties:** The Parties are and shall remain at all times as to each other, wholly independent entities. No Party to this MOU shall have power to incur any debt, obligation, or liability on behalf of another Party or otherwise act as an agent of another Party except as expressly provided to the contrary by this MOU.

C. **Cooperation, Further Acts:** Parties shall cooperate fully with one another to attain the purposes of this MOU. The City will report regularly to the Los Angeles Water Board on the status of progress in implementing this MOU.

D. **Amendments:** All amendments must be in writing, approved and executed by all Parties. The Parties shall meet and confer prior to the conclusion of Phase One, or other times as appropriate, to evaluate the need for revisions to the

schedule for Phase Two and Phase Three.

E. **Reservation of Rights:** Each Party shall be solely responsible and liable in connection with its actions associated with its responsibilities under this MOU. For purposes of this MOU, the relationship of the parties is that of independent entities and not as agents of each other or as joint venturers or partners. The parties shall maintain sole and exclusive control over their personnel, agents, consultants, and operations. Nothing in this MOU is intended to limit the legal authority or responsibilities of the Parties, except as agreed to herein. The Los Angeles Water Board intends to terminate the MOU if the City is not in substantial compliance with the Plan set forth herein; in which case, the Water Boards may enforce the Basin Plan Amendment as written against the City and other entities as authorized by the Porter-Cologne Water Quality Control Act or other applicable law.

F. **Third Parties:** Nothing in this MOU is intended to create duties or obligations to or rights in third parties to this agreement or effect the legal liability of the parties to this MOU.

G. **Enforcement:** The Parties agree to cooperate in implementation of the Basin Plan Amendment as set forth in this MOU. The Los Angeles Water Board and the State Water Board have jurisdiction to enforce the Basin Plan Amendment. The City agrees to coordinate in any enforcement action by supplying the Water Boards with property and owner information. The City agrees to require connection to the Wastewater Treatment Facility for every parcel within an approved assessment district. Should any property owner within an assessment district refuse to connect, the Parties agree to coordinate in all necessary action as described above to gain compliance. The City and the Water Boards shall use their respective enforcement authorities to attain compliance with the Basin Plan Amendment.

If an assessment district is not approved by dischargers in Phase Two, the Los Angeles Water Board may enforce all State policies, plans, or regulations to gain compliance, including the requirement to upgrade each OWDS to advance treatment, or other appropriate means by **February 1, 2029**. Advanced treatment for OWDS is defined as disinfection treatment to a level that meets applicable water quality standards for Fecal Indicator Bacteria and denitrification not to exceed a total nitrogen concentration of 10 mg/L. All property owners that are required to upgrade their system will need to obtain City of Malibu building permits and obtain an operating permit in accordance with City ordinances. The City's operating permit program requires that advanced residential OWDS must be inspected every three years by a certified OWDS inspector. The Los Angeles Water Board will also require effluent monitoring for these systems that shall be submitted and reviewed by the Los Angeles Water Board on a quarterly basis for total suspended solids, total nitrogen, total phosphorus, and Fecal Indicator Bacteria as appropriate.

H. **Dispute Resolution:** The Parties agree to attempt to informally resolve any disputes that arise with respect to this MOU prior to terminating the MOU by notifying the other party if a dispute arises and identifying the issues in dispute. Each party reserves its rights if informal dispute is not effective.

I. **Governing Law:** This MOU is governed by, interpreted under and construed and enforced in accordance with the laws of the State of California.

J. **Authorized signatures:** The Parties hereby represent and warrant that their respective signatory of this MOU is duly authorized to execute and bind the agency for which he signs.

K. **Severability:** If any provision of this MOU shall be determined by any court to be invalid, illegal or unenforceable to any extent, the remainder of this MOU shall not be affected and this MOU shall be construed as if the invalid, illegal or unenforceable provision had never been contained in this MOU.

IN WITNESS WHEREOF, the Parties to this MOU have caused this MOU to be executed on their behalf as of the date specified below, respectively, as follows:

FOR THE STATE WATER RESOURCES CONTROL BOARD:

Dated:

Eric Oppenheimer, Executive Director
State Water Resources Control Board

_____
Eric Oppenheimer

APPROVED AS TO FORM:

Michael A. M. Lauffer, Chief Counsel
State Water Resources Control Board

_____
Michael A .M. Lauffer

FOR THE LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD:

Dated:

Susana Arredondo, Executive Officer
Los Angeles Regional Water Quality Control Board

Susana Arredondo

APPROVED AS TO FORM:

Amelia Carder, Attorney III
State Water Resources Control Board

Amelia Carder

FOR THE CITY OF MALIBU:

Dated:

Bruce Silverstein, Mayor
City of Malibu

Bruce Silverstein

ATTEST:

Kelsey Pettijohn,
City Clerk

Kelsey Pettijohn

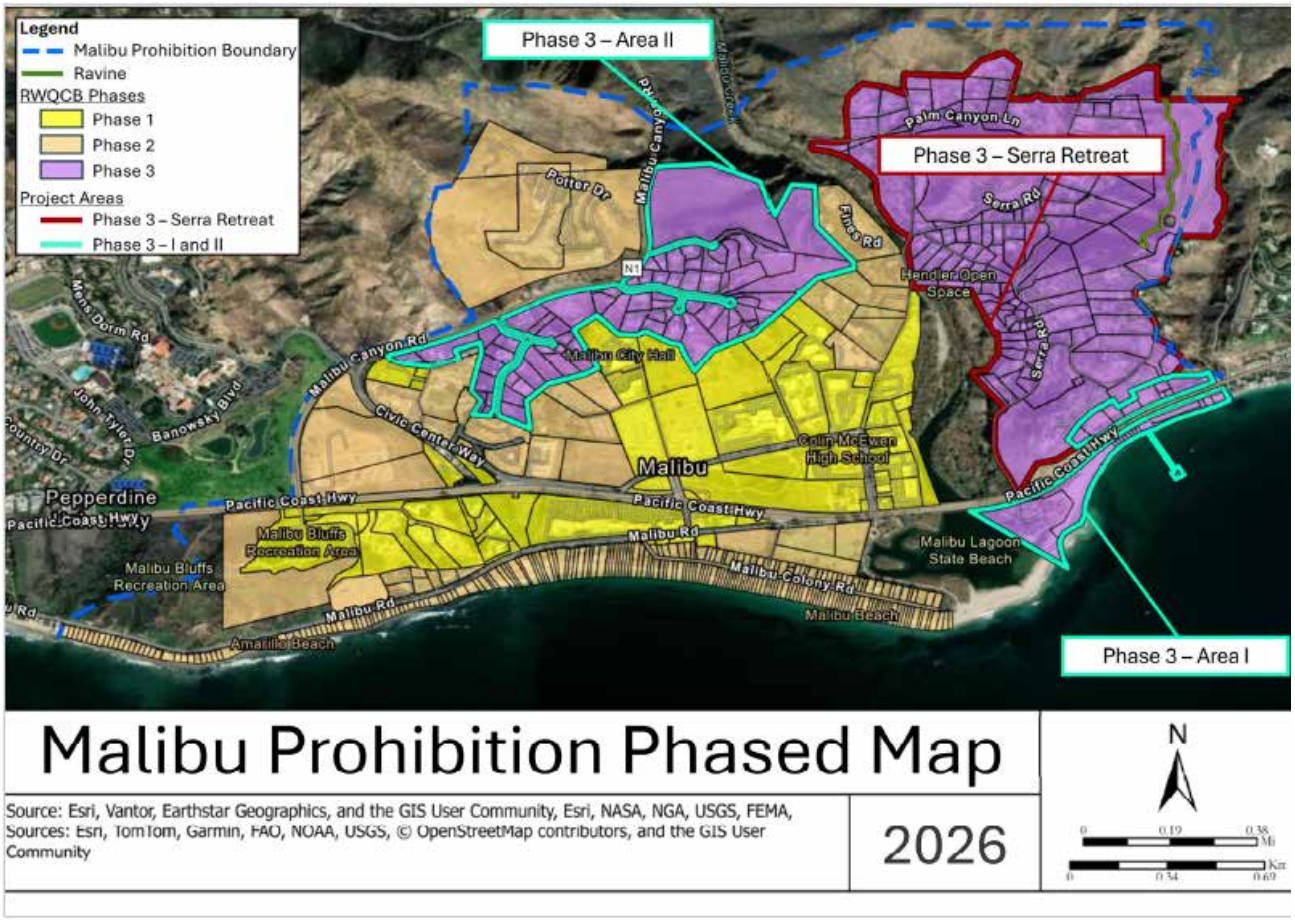
APPROVED AS TO FORM:

Trevor Rusin
Interim City Attorney

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

Trevor Rusin

Exhibit A: Phases Two and Three Implementation Boundary Map



Malibu Prohibition Phased Map

Source: Esri, Vantor, Earthstar Geographics, and the GIS User Community, Esri, NASA, NGA, USGS, FEMA, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

2026

Attachment 3

Draft 2026 Malibu MOU Implementation Schedule
June 8, 2026

Task Item	MOU Implementation Schedule
MOU Amendment:	
- City Council Update (19 Days)	5/20/2026 – 6/8/2026
- RB Public Notice and Comment Period (30 Days)	6/9/2026 – 7/9/2026
- RB Board Approval (13 Days)	7/10/2026 - 7/23/2026
- City Final Approval (28 Days)	7/27/2026 – 8/24/2026
Phase 2 Project Re-Design:	
- Re-Design Financing/Bond (182 Days)	8/24/2026 – 2/22/2027
- Amended Design Agreement (30 Days)	1/23/2027 – 2/22/2027
- Preliminary Re-Design, including Revised Eng. Design Report (180 Days)	2/23/2027 – 8/22/2027
- Final Re-Design (240 Days)	8/23/2027 – 4/19/2028
Serra Retreat Feasibility	
- Serra Retreat Feasibility Report (360 Days)	8/22/2027 – 8/16/2028
- Serra Retreat Pre-Implementation (180 Days)	8/17/2028 – 2/13/2029
Community Outreach (428 Days)	8/22/2027 – 10/23/2028
Securing Easements (322 Days)	8/23/2027 – 7/10/2028
Environmental/Coastal Development Permitting (CDP):	
- Addendum to EIR (180 Days)	8/22/2027 – 2/18/2028
- Amendment to CDP (180 Days)	8/22/2027 – 2/18/2028
DFA SRF Review and Approval:	
- Amended Scope of Work for SRF Application (60 Days)	2/22/2027 – 4/23/2027
- SRF Environmental Review (241 Days)	8/22/2027 – 4/19/2028
- SRF Legal Review (60 Days)	11/22/2028 – 1/21/2029
- SRF Funding Agreement Execution – LA Water Board (30 Days)	1/21/2029 – 2/20/2029
- SRF Funding Agreement Execution – City of Malibu (30 Days)	2/20/2029 – 3/23/2029
Construction Bidding:	
- Advertise for Construction Bidding (60 Days)	3/29/2028 – 5/28/2028
- Receive and review construction bids (21 Days)	5/28/2028 – 6/18/2028
Assessment District Formation:	
- Assessment District Engineer's Report (280 Days)	10/4/2027 – 7/10/2028
- Notice to Initial Assessment District (30 Days)	7/10/2028 – 8/9/2028
- Prop 218 Notice Period (45 Days)	8/9/2028 – 9/23/2028
- Formation of Phase 2 Assessment District (30 Days)	9/23/2028 – 10/23/2028
Construction:	
- Award of construction contracts (30 Days)	2/21/2029 – 3/23/2029
- Construction of Pipelines and Pump Stations (422 Days)	3/23/2029 – 5/19/2030
- Construction of Phase 2 treatment plant upgrades (450 Days)	3/23/2029 – 6/16/2030
- Startup and Commissioning (90 Days)	6/16/2030 – 9/14/2030
- Private Lateral Connections and startup (280 Days)	6/16/2030 – 3/23/2031
Serra Retreat Implementation (450 Days)	6/13/2029 – 9/6/2030
Water Quality Assessment Report (365 Days)	3/23/2031 – 3/22/2032
Phase 3 completion, if necessary (1,095 Days)	3/22/2032 – 3/22/2035