



California Coastal Commission

**COASTAL DEVELOPMENT PERMIT
CDP 3-23-0288 (MST Bus Road)**

Permittee: Monterey-Salinas Transit

Issue Date: September 18, 2024

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Coastal development permit (CDP) number 3-23-0288 was approved by the California Coastal Commission on September 12, 2024. 3-23-0288 allows MST to construct a new 4.2 mile long, 30-foot-wide paved bus road and associated development including drainage infrastructure, retaining walls, a bus stop, pedestrian crossings, and a 700-foot extension of the Monterey Bay Sanctuary Scenic Trail, all located between Highway 1 and Fort Ord Dunes State Park, in the existing rail corridor right-of-way owned by the Transportation Agency for Monterey County (TAMC). CDP 3-23-0288 is subject to certain terms and conditions, including the standard and special conditions beginning on page 2 of this CDP.

As of September 12, 2024, the CDP can be issued. Thus, by my signature below, the CDP is issued on behalf of the California Coastal Commission:

Kevin Kahn

Kevin Kahn, Central Coast District Manager, for Kate Huckelbridge, Executive Director

Acknowledgement

The undersigned Permittees acknowledge receipt of this CDP and agree to abide by all terms and conditions thereof. The undersigned Permittees acknowledge that Government Code Section 818.4 (that states in pertinent part that "a public entity is not liable for injury caused by the issuance of any permit") applies to the issuance of this CDP.

DocuSigned by:

Carl Sedonyk

9/18/2024

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Monterey-Salinas Transit Representative

Date

CEO

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Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

Special Conditions

1. **Revised Final Plans.** PRIOR TO CONSTRUCTION, the Permittee shall submit two full-size sets of Revised Final Plans to the Executive Director for review and written approval. The Revised Final Plans shall: be prepared by a licensed professional or professionals (e.g., surveyors, geotechnical engineers, etc.); be based on current professionally surveyed and certified topographic elevations for the entire site; and include a graphic scale. The plans shall be substantially in conformance with the proposed plans (titled "Monterey-Salinas Transit Surf! Busway and Bus Rapid Transit (BRT) Project Monterey County, California" (see **Exhibit 3** for representative plan sheets; full plan sheets are located in the project file)) except that they shall be modified to meet the following requirements:
 - a. **Bus Road Changes.** The bus road (i.e., comprised of two contiguous 12-foot wide travel lanes with 3-foot wide shoulders on each outside edge, for a total paved width of no more than 30 feet) shall be relocated and constructed in the area currently occupied by the ballast and tracks of the Monterey Branch Rail Line (except for the 5th Street Station spur), where it shall be sited and designed such that (1) the road shall limit non-ballast area coverage and such coverage shall be limited to the areas inland of the tracks, except for any locations where a more seaward alignment is more protective of coastal resources (e.g., would avoid extensive grading, etc.); (2) the ballast shall be repurposed as part of the road support/base, and all other ballast, track, and related development shall be removed and disposed of pursuant to all applicable requirements; (3) the road shall be able to accommodate light-rail services in the future in both

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directions (i.e., one for each travel lane); all to the maximum extent feasible. Retaining walls and all other above-ground development shall be limited to the maximum extent feasible, and only provided when required to ensure necessary safety and structural integrity for the bus road.

- b. Fencing/Barriers.** New fencing/barriers shall be prohibited, and existing fencing/barriers in the project area shall be removed, unless the Executive Director allows any such fencing/barriers in any particular locations for public safety or habitat protection purposes, where such fencing/barriers are only allowed provided the Executive Director also determines that any such fencing/barriers: (1) are the minimum necessary to provide for such public safety; and (2) are sited and designed in such a way as to seamlessly blend into the natural environment, to avoid public access degradation, and to minimize incursions into public views, all to the maximum extent feasible. All other fencing/barriers not meeting such parameters shall be prohibited.
- c. Lighting.** Lighting of any portion of the project area shall be prohibited, unless the Executive Director allows any such lighting in any particular locations for public safety purposes, where such lighting is only allowed provided the Executive Director also determines that any such lighting: (1) is the minimum necessary to provide for such public safety; (2) is directed downward and away from public and natural areas; (3) is shielded from public and natural area view; (4) is wildlife-friendly, and uses lamps that minimize the blue end of the visible spectrum; (5) limits the amount of light or glare visible from both public viewing and natural areas; (6) uses the lowest luminosity possible; (7) does not include blinking or flashing elements; (8) is automatically turned off when not required to be in use; and (9) is sited and designed in such a way as to seamlessly blend into the natural environment, and to minimize incursions into public views, all to the maximum extent feasible.
- d. Utilities.** All utilities (e.g., electrical conduits) shall be clearly identified (including the manner in which they will connect to offsite distribution networks) and shall be located underground within the bus road footprint, and all existing overhead utilities on the site shall be removed.
- e. Stormwater and Drainage.** All stormwater, drainage, and related water quality infrastructure (e.g., pervious pavements, etc.), with preference given to natural BMPs (e.g., bioswales, vegetated filter strips, etc.), shall be clearly identified. Such infrastructure shall provide that all project area stormwater and drainage is filtered and treated to remove expected pollutants prior to discharge and/or direction to offsite areas; shall retain runoff from the project onsite to the maximum extent feasible (e.g., through the use of pervious areas, percolation pits, engineered storm drain systems, etc.); shall be sized and designed to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event; shall, in extreme storm situations (i.e., greater than the 85th percentile 24-hour runoff event storm) where such runoff cannot be adequately accommodated on-site

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through the project's stormwater and drainage infrastructure, ensure that any excess runoff is conveyed off-site in a non-erosive manner; and shall be permanently operated and maintained (where all maintenance parameters for such infrastructure, including based on manufacturers recommendations, shall be provided), where all such operation and maintenance activities shall be documented and shall be provided upon Executive Director request.

- f. Signs.** All signs and related project components shall be identified (including details showing their location, materials, design, and text), and all such sign development shall be sited and designed: (1) to limit the number and visibility of all signs; (2) to minimize visibility in public views; (3) to seamlessly integrate into the surrounding environment (e.g., using natural materials, earth tone colors and graphics, etc.); (4) to limit lighting as much as possible (and be consistent with the lighting requirements specified above at a minimum); and (5) to be subordinate to the project setting, all to the maximum extent feasible.
- g. Dune/View Sensitive Design.** All publicly visible development shall be sited, designed, colored, screened, and camouflaged (including making maximum use of integrated dune screening and natural landscaping and screening elements) to maximize coastal view protection and minimize visual intrusion, including through use of materials appropriate to the dune context that blend with the natural environment, all to the maximum extent feasible. Hard structural concrete elements, such as retaining walls, shall be faced with a sculpted concrete surface that mimics the natural undulating dune landform in the vicinity in terms of integral mottled color, texture, and undulation to the maximum extent feasible, except that such concrete surfaces may also be covered with local art subject to the Executive Director's review and written approval. The bus road itself (and other new paved areas) shall be colored to match nearby dune landforms, with any pavement markings both limited to that required for safety purposes, and colored to limit their visibility in public views to the maximum extent feasible while ensuring adequate visibility for bus drivers to safely operate on the road. All drainage and related elements within shall be camouflaged so as to be hidden or inconspicuous as seen from public viewing areas, including camouflage of any expected drainage staining over time. The color, texture, and undulations of all such surfaces shall be maintained throughout the life of the approved development, and all such surface and related treatments shall make use of paints, stains, sealants, and any other such materials that are appropriate for and safe for use in the dune environment.
- h. Sand Management Provisions.** All provisions that will be applied to manage sand accumulation on the bus road and Scenic Trail extension (including sand management methods, collection and deposition locations, frequency, and expected volumes of sand) shall be clearly identified. Any sandy materials collected shall be, where feasible, allocated to restoration projects in the area, provided that such material does not contain contamination that poses a threat to human or ecological health.

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- i. **Construction Requirements.** All construction plan requirements (see Special Condition 2) shall be identified on the Revised Final Plans.
- j. **Archaeological and/or Tribal Cultural Resource Protection.** All archaeological and/or tribal cultural resource protection requirements (see Special Condition 8) shall be identified on the Revised Final Plans.
- k. **Public Access Areas and Amenities.** All public access areas and amenities as identified in the Public Access Management Plan (see Special Condition 3) shall be identified on the Revised Final Plans.

All requirements above and all requirements of the Executive Director-approved Revised Final Plans shall be enforceable components of this CDP. The Permittee shall undertake development in conformance with this condition and the approved Revised Final Plans.

- 2. **Construction Plan.** PRIOR TO CONSTRUCTION, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and written approval. The Construction Plan shall, at a minimum, include the following:
 - a. **Construction Areas.** The Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall minimize impacts on public access, including to and along the Monterey Bay Sanctuary Scenic Trail (i.e., Beach Range Road), the Monterey Peninsula Recreational Trail, and other coastal resources including by using inland areas for staging and storing construction equipment and materials, all to the maximum extent feasible. Construction areas shall be sited and designed to minimize impacts to public beach access and public views to the maximum extent feasible.
 - b. **Construction Methods.** The Plan shall specify the construction methods to be used, including all methods to be used to keep construction areas separated from public use areas and to ensure uninterrupted public use along the Scenic Trail and the Recreational Trail (including through use of unobtrusive fencing and/or other similar measures to delineate construction areas), and including verification that equipment operation and equipment and material storage will not significantly degrade public views during construction, all to the maximum extent feasible. The Plan shall also limit construction activities to avoid coastal resource impacts, including that lighting of the work area is prohibited unless the Executive Director determines that lighting the work area is required to safely carry out construction and measures are applied to ensure maximum coastal resource protection, all to the maximum extent feasible. The Plan shall also identify methods to temporarily re-open public access during any work stoppages (for phasing purposes or otherwise) to the maximum extent feasible.
 - c. **Construction Timing.** The Plan shall include a complete construction schedule, where no work shall occur during weekends and holidays in the peak summer months (i.e.,

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from the Saturday of Memorial Day weekend through Labor Day, inclusive) unless, due to extenuating circumstances, the Executive Director authorizes such work.

- d. **Construction BMPs.** The Plan shall identify the type and location of all construction best management practices that will be implemented during construction to protect coastal resources, including at a minimum all of the following:
1. **Runoff Protection.** Silt fences, straw wattles, and equivalent apparatus shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging from the construction area, and/or entering into storm drains or otherwise offsite and/or towards into the adjacent dunes. Special attention shall be given to appropriate filtering and treating of all runoff, and all drainage points, including storm drains, shall be equipped with appropriate construction-related containment and treatment equipment. Tarps or similar such devices shall be used to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills.
 2. **Erosion and Sediment Controls.** All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.
 3. **Equipment.** Equipment washing, refueling, and/or servicing shall take place at an appropriate off-site and inland location away from dune habitat on an existing hard surface area (e.g., a road) or an area where collection of materials is facilitated. All construction equipment shall also be inspected and maintained at a similarly sited inland location to prevent leaks and spills of hazardous materials at the project site.
 4. **Good Housekeeping.** The construction site shall maintain good construction housekeeping controls and procedures at all times (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain, including covering exposed piles of soil and wastes; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the project site; etc.).
 5. **Construction Vehicles.** Construction vehicle types (rubber tired, track, etc.) shall be selected to minimize impacts to sensitive habitats to the maximum extent feasible, with a preference for rubber-tired vehicles where feasible.
 6. **Construction Material Storage.** All construction materials and equipment shall be stored off of dune habitat, except for necessary erosion and sediment controls and/or construction area boundary fencing area allowed where such controls and/or fencing are placed as close to the work area, and are minimized in their extent, both to the maximum extent feasible.

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- e. **Sand Retention.** Any sandy materials exported during the course of construction shall be, where feasible, allocated to restoration projects in the area, provided that such material does not contain contamination that poses a threat to human or ecological health.
- f. **Biological Monitoring.** The Permittee shall enlist one or more qualified biologists, subject to the Executive Director's approval, to monitor construction activities. The biologist(s) shall possess the authority to halt work to prevent any breach in CDP compliance from occurring, or if any unforeseen sensitive habitat issues arise and until they are satisfied that the issue has been resolved; and shall immediately notify the Executive Director if development activities outside the scope of this CDP occur and document any incidents requiring the stoppage of work. The biologist(s) shall also conduct sensitive species pre-construction surveys and shall monitor the project site during all construction activities per the following:
- 1. Pre-Construction Surveys.** PRIOR TO CONSTRUCTION, the biologist(s) shall conduct surveys (protocol-level, when available) for any sensitive species (including, but not limited to, legless lizard, nesting birds, American badger, Townsend's big-eared bat, and Monterey dusky-footed woodrat) that have been previously documented within the work area and/or an area measured out one half-mile from it, and that could be reasonably expected to be present on the basis of other known factors (e.g., habitat suitability). Surveys shall be conducted no sooner than 14 days before construction of a segment for nesting birds, and no sooner than 30 days before construction of a segment for other sensitive species. Surveys shall be conducted to at least 100 feet beyond the specified work areas, as feasible. The results of these surveys shall be reported to the Executive Director, USFWS, and CDFW. In the event that such surveys identify any sensitive species, the Permittee shall take measures to avoid impact to these species in accordance with the Mitigation Monitoring and Reporting Program, dated June 2021, and follow any necessary consultation with CDFW and/or USFWS.
 - 2. Construction Monitoring.** PRIOR TO COMMENCEMENT OF CONSTRUCTION EACH DAY, the biologist(s) shall inspect the active project areas to ensure that the day's activities will not result in impacts to sensitive species, where the results of each daily pre-construction survey shall be documented and made available upon request to appropriate agencies. If special-status species are observed and may be impacted, construction activities may not commence until any sensitive wildlife species have left the project area and its vicinity and/or any sensitive plant species have been sufficiently protected or salvaged in accordance with the Mitigation and Monitoring Reporting Plan. If impacts or injury occur to sensitive species, the Permittee shall notify the Executive Director, as well as CDFW and/or USFWS as applicable, and will be advised of the appropriate action or mitigation to be taken.

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- g. Restoration.** All construction debris shall be removed, and all dune area and public recreational access and use areas and all beach access points impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction (unless addressed differently in the Habitat Monitoring and Mitigation Plan (Special Condition 5)). Any native materials impacted shall be appropriately filtered as necessary to remove all construction debris.
- h. Construction Site Documents.** The Plan shall provide that copies of the signed CDP and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
- i. Construction Coordinator.** The Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that their contact information (i.e., address, phone numbers, email address, etc.) including, at a minimum, a telephone number (with message capabilities) and an email that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas while still protecting public views as much as possible, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. All complaints and all actions taken in response shall be summarized and provided to the Executive Director on at least a weekly basis during construction.
- j. Construction Specifications.** All construction specifications and materials, including construction contracts, shall include appropriate penalty provisions that require appropriate and commensurate remediation for any work done inconsistent with the terms and conditions of this CDP.
- k. Notification.** The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least three working days in advance of commencement of construction, and immediately upon completion of construction.

All requirements above and all requirements of the Executive Director-approved Construction Plan shall be enforceable components of this CDP. The Permittee shall undertake construction in conformance with this condition and the approved Final Construction Plan.

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3. Public Access Management Plan. PRIOR TO CONSTRUCTION, the Permittee shall submit two full-size sets of a Public Access Management Plan to the Executive Director for review and written approval. The Plan shall clearly describe the manner in which general public access associated with the approved project is to be provided and managed, with the objective of maximizing public use of all public access areas associated with the proposed development (including the connecting vertical accessways, Fifth Street Station trail connections, Monterey Bay Sanctuary Scenic Trail, Monterey Peninsula Recreational Trail,¹ wayfinding and public access signs, etc.), and improvements/amenities associated with the approved project (i.e., parking areas, restrooms, pathways, overlooks, benches, picnic tables, bicycle racks and lockers, interpretive signage, waste and recycling receptacles, doggie mitt stations, etc.) as described in this special condition and Special Condition 1. All public access improvements/amenities shall be sited and designed to seamlessly integrate into the natural dune setting and to maximize public view protection, including through use of siting/design approaches and materials that are appropriate to the dune context, and including to ensure that the approved development effectively blends into and enhances the natural environment, all to the maximum extent feasible. All public access improvements/amenities are required to be maintained and managed by the Permittee pursuant to the Plan over time. The objective and goal is to also work in conjunction with California State Parks to optimize seamless connections between inland areas and Fort Ord Dunes State Park and Marina State Beach, including facilitating public access along the Scenic and Recreational Trails. The Plan shall at a minimum include and provide for the preceding and the following:

- a. Clear Depiction of Public Access Areas and Amenities.** All public access areas and amenities, including all of the areas and amenities described above and below, shall be clearly identified as such on the Plan (including with hatching and closed polygons so that it is clear what areas are available for public access use). The public access areas shall, at a minimum, and in addition to the Scenic Trail/Beach Range Road extension, include connections from inland locations to the Recreational and Scenic Trails at least at: (1) the upcoast end of the project nearest Marina; (2) the 5th Street Station; (3) the southern end of the Scenic Trail/Beach Range Road extension; and (4) the Recreational Trail along the southbound Highway 1 onramp at California Avenue, where all such connections shall ensure safe and convenient public access from east to west. In the event that any future improvements to Imjin Parkway include enhanced bicycle and pedestrian infrastructure, the Permittee shall work with that project proponent to ensure that such project also connects such infrastructure to the Recreational and Scenic Trails, including if such a connection requires new bike lanes and/or sidewalks over the Imjin Parkway bridge over Highway 1. The public access amenities shall, at a minimum, include (1) an additional bus stop seaward of Highway 1 sited to provided convenient pedestrian/bicycle access to the future Fort Ord Dunes State Park Campground, along with any additional trails necessary to connect the new stop to the campground trail

¹ Unless the Recreational Trail is restored to dune habitat, as is allowed under this approval.

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system; (2) public access amenities deemed appropriate by the Executive Director, such as overlook areas, benches, picnic tables, bicycle racks/lockers, interpretive signage, waste and recycling receptacles, doggie mitt stations, low profile fencing in appropriate locations on the Recreational and Scenic Trails, and/or related public amenities near connection points, all commensurate with expected public use; and (3) signage (see below). All public access amenities on State Park property or connecting to State Park property shall be sited and designed in collaboration with State Parks, and shall reflect State Parks approval of them.

- b. Public Access Signs/Materials.** The Plan shall identify all signs, handouts, brochures, and any other project elements that will be used to facilitate, manage, and provide public access associated with the approved project, including identification of all public education/interpretation features that will be provided on the site (educational displays, interpretive signage, etc.). All materials shall include English and non-English languages (including but not limited to Spanish), tailored to be culturally relevant, and written in plain language to prevent educational and cultural barriers to public access. Sign details showing the location, materials, design, and text of all public access signs (including the public access use hours described in Special Condition 4(d)) shall be provided. At a minimum, public access and wayfinding signs shall be placed at all public access areas and amenities listed above. The signs shall be designed so as to provide clear information without impacting public views and site character. All directional signs shall include the Commission's access program "feet" logo and the California Coastal Trail emblem. Public access interpretive signage (appropriate to Monterey Bay/Fort Ord Dunes issues, information, and/or history) shall be located at appropriate locations, as determined by the Executive Director, along each accessway to the Recreational and Scenic Trails.
- c. No Public Access Disruption.** Development and uses within the public access areas that disrupt and/or degrade public access (including areas set aside for private uses, barriers to public access (planters, temporary structures, private use signs, ropes, etc.)) shall be prohibited. The public use areas shall be maintained in a manner that maximizes public use and enjoyment.
- d. Public Access Parameters.** The public access areas and amenities shall be open to the general public 24 hours per day and shall be available free of charge.
- e. Public Access Amenities Provided Prior to Use.** All public access components of the approved project shall be constructed and ready for use prior to use of the bus road.
- f. Public Access Areas and Amenities Maintained.** The public access components of the project shall be maintained by the Permittee in their approved state in perpetuity. Prior to any modification, movement, or replacement of such access improvements, the Permittee shall obtain CDP authorization for such development, unless the Executive Director determines that such authorization is not legally necessary.

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All requirements above and all requirements of the Executive Director-approved Public Access Management Plan shall be enforceable components of this CDP. The Permittee shall undertake public access development and management in conformance with this condition and the approved Public Access Management Plan.

4. **Habitat Impact Validation and Compensatory Mitigation.** Habitat impacts shall be validated and mitigated as follows:
 - a. **Post-Construction Impact Validation.** WITHIN 90 DAYS OF COMPLETION OF CONSTRUCTION, the Permittee shall ensure that initial post-construction surveys are completed. For each habitat, post-construction surveys shall document, at a minimum: the physical extent and acreage of all impacted habitats, and the activities that occurred within the area, including any vegetation clearance, mortality, or other significant reduction in vegetation cover due to project activities (e.g., pruning), or ground disturbance. For impacts anticipated to be potentially characterized as temporary, surveys shall also document, at a minimum: the dates of initial and final project-related disturbance to the habitat; each vegetation community's native species diversity, native species cover, invasive species cover, and the relative cover of dominant native vegetation species; the vegetation community's age classes and/or size structure distributions; and, photos from the designated points used for pre-construction surveys, to support impact evaluations.
 1. **Final Short-term Temporary Impact Validation.** WITHIN TWELVE MONTHS OF INITIATION OF CONSTRUCTION, the Permittee shall conduct a survey that validates areas (physical extents and acreages) initially characterized as short-term temporary impacts by comparison with the baseline condition for each vegetation community, including native species diversity, native species cover, the relative cover of dominant native vegetation species, and the vegetation community's age classes and/or size structure distributions. Invasive species cover shall also be described. The survey shall be detailed in a report, to be submitted by the Permittee within 30 days of final survey completion, for Executive Director review and approval. If the survey demonstrates impacts persist or any revegetation effort has been unsuccessful, in part or in whole, any remaining impacts are, by definition, permanent. Digital copies of the survey data and associated metadata shall be provided with the reports.
 2. **Final Long-term Temporary Impact Validation and Report.** WITHIN TWELVE MONTHS OF THE COMPLETION OF CONSTRUCTION, the Permittee shall conduct a survey that validates areas (physical extents and acreages) initially characterized as long-term temporary impacts using the same comparisons outlined in (1) and shall be detailed in a report, to be submitted by the Permittee within 30 days of final survey completion, for Executive Director review and approval. If the survey demonstrates impacts persist or any revegetation effort has been unsuccessful, in part or in whole, any remaining impacts are, by definition,

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permanent, and shall be mitigated accordingly. Digital copies of the survey data and associated metadata shall be provided with the reports.

A final report comparing the extent and nature of impacts as estimated by the Permittee in the submitted material with those actually observed following construction shall be submitted for Executive Director review and written approval. The observed impacts, once approved, shall form the basis of the compensatory habitat mitigation obligation. If the observed impacts are at least 15% greater than what was assessed as part of the approval final plans and the Commission's authorization, a CDP amendment shall be required to address the discrepancy, unless determined unnecessary by the Executive Director. Any such differences between estimated and observed impacts shall require revision or supplement to the Habitat Mitigation and Monitoring Plan pursuant to Special Condition 6.

- b. Temporary Impact Mitigation.** Short-term temporary habitat impacts are those that are fully restored within 12 months of initial construction activity disturbance, and long-term temporary habitat impacts are those that may occur for up to a 24-month period from the initial disturbance but require no more than 12 months following the conclusion of construction activity to fully recover. Any habitat impacts that do not meet these timing parameters; that significantly disturb the ground (e.g., trenching); and/or that fail to recover vegetation communities to equal or better condition in terms of native diversity, native species cover, the relative cover of dominant native vegetation species, and vegetation community age classes and/or size structure distributions, shall be considered permanent habitat impacts and shall require mitigation attributable to such permanent impacts. Any habitat impacts determined to qualify as temporary shall be mitigated for at a minimum ratio of 1:1 (short-term) or 1.5:1 (long-term).
- c. Permanent Impact Mitigation.** All impacts failing to qualify as temporary for any of the above cited reasons shall be recognized as permanent and mitigated for at a minimum ratio of 3:1, where this base ratio assumes compensation as habitat creation or substantial restoration. Alternatively, enhancement or preservation strategies may be proposed at no less than double or triple the base ratio, respectively. Except for the area presently occupied by ballast, no net loss of dune habitat(s) shall be assured by provision of a minimum ratio of 1:1 as habitat creation for the total acreage where permanent development will be located (see Special Condition 5). Any remaining balance following creation may be addressed through the various mitigation strategies, with adjustments to the discounted ratio, as described above (e.g., 2:1 may be satisfied via creation or substantial restoration, or as 4:1 via enhancement, or as 6:1 via preservation).
- d. Mitigation Areas Protection.** WITHIN 90 DAYS OF COMPLETION OF CONSTRUCTION, the Permittee shall submit to the Executive Director for review and written approval documentation demonstrating that all habitat mitigation areas intended to compensate for permanent impacts as well as the 0.5:1 fraction for long-term

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temporary impacts that would not be addressed in place, are covered by deed restrictions, easements (or offers of easements), or equivalent, that require preservation of such habitat areas for habitat purposes only in perpetuity, and that prohibit development (as defined in Coastal Act Section 30106) except for development generally interpreted as compatible with habitat purposes (e.g., restoration activities, nature study, and low impact recreation). Any deed restrictions, easements/offers, and/or other provisions recorded to satisfy this requirement: (1) shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed; (2) shall include formal legal descriptions of the entirety of the parcels involved; (3) shall include a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor based on an on-site inspection, drawn to scale and approved by the Executive Director, of the mitigation areas; (4) shall run with the land, binding successors, and assigns of the property owner; (5) shall indicate that the restrictions on the use of the land shall be in effect upon recording and remain as covenants, conditions, and restrictions running with the land in perpetuity; and (6) for easements/offers, shall provide that acceptance is limited to public entities including State Parks or another land management entity, approved by the Executive Director.

- e. **Mitigation Deadlines.** If habitat mitigation has not been implemented pursuant to an approved Habitat Mitigation and Monitoring Plan (see Special Condition 5) within five years of construction commencement, the required mitigation ratios shall be increased by 0.5 acre for each portion of a year beyond five years (e.g., for mitigation starting at 3:1, the obligation becomes 3.5:1 if the 5-year time frame is exceeded, 4:1 after 6 years, etc.). The Executive Director may extend the habitat mitigation deadlines if they determine that the Permittee has been diligently pursuing habitat mitigation requirements, and that the Permittee has demonstrated good cause for any identified delays, or apply a lesser rate of increase if the Permittee can demonstrate diligent pursuit of mitigation implementation but has been delayed by matters outside of Permittee control (e.g., litigation complications, etc.).

5. **Habitat Mitigation and Monitoring Plan.** NO LATER THAN ONE YEAR FOLLOWING CDP APPROVAL (i.e., SEPTEMBER 12, 2025), the Permittee shall submit a Habitat Mitigation and Monitoring Plan (HMMP) to the Executive Director for review and written approval. An extension for the submittal of the HMMP may be granted by the Executive Director for good cause. The Plan shall be prepared by a qualified resource specialist approved by the Executive Director and shall provide for habitat mitigation and monitoring as described herein. All such habitat mitigation shall be located within the Monterey Bay Dunes Complex within the Coastal Zone at locations where such mitigation areas can be protected in perpetuity, unless no feasible option is available and/or areas further away are determined by the Executive Director to provide more significant dune habitat benefits to the region. The HMMP shall, at a minimum, include the following components:

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- a. **Introduction.** Description of the HMMP purpose including an overview of the proposed project associated with the HMMP; a summary of impacts for which the HMMP is intended to mitigate; identification of the general mitigation strategies to be used; the proposed mitigation locations; and the mitigation areas intended to compensate for each affected resource.
- b. **Goals and Objectives.** Statement of mitigation goals, including the desired habitat types, major vegetation components, and sensitive species and wildlife support functions; description of the desired habitat with rationale, to be based on a high-functioning reference site where feasible and alternatively, derived from literature describing either the site's historic conditions or "typical" regional habitat conditions; specific, actionable objectives to support stated goals; and a detailed timeline laying out all major activities including any outstanding preliminary work such as surveys, site preparation, mitigation implementation including revegetation activities, interim and final monitoring periods, etc.
- c. **Compensatory Mitigation Strategies.** Compensatory mitigation requirements shall be satisfied by habitat creation, restoration, enhancement, and/or preservation as described below, and pursuant to the mitigation ratios and protections described in Special Condition 4:
 1. **Habitat Creation.** Habitat creation applies to lands that are developed or subject to identifiable development threats but that could appropriately support self-sustaining dune-associated habitat following habitat restoration activities. Such lands may include singular or multiple sites, and/or sites of variable habitat condition. In all cases, such sites shall be removed from future development threats and functions and values shall be fully restored to qualify as habitat creation.
 2. **Habitat Restoration.** Habitat restoration applies to lands that presently support degraded dune-associated habitats where any physical, chemical, and biological stressors would be actively addressed in order to return a full suite of self-sustaining ecological functions and values to the area. This may involve intensive techniques such as manipulating landforms to restore natural processes, and/or eradicating large expanses of non-native species followed by revegetation with a robust palette of natives to restore a high-functioning natural condition.
 3. **Habitat Enhancement.** Habitat enhancement applies to lands that presently support degraded dune-associated habitats where only limited interventions are necessary to reach a high-functioning natural condition that supports self-sustaining ecological functions and values. Such interventions may include weeding of patchy invasive vegetation, limited revegetation efforts, or installation of features to benefit target wildlife.
 4. **Habitat Preservation.** Habitat preservation applies to lands that do or reasonably could support dune-associated ecological functions and values, and that are placed

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under some form of permanent protection but their condition is not actively improved.

- 5. Habitat Land/Landowner Requirements/Limitations.** Land already obligated by other requirements, including but not limited to prior Coastal Commission decisions, legal obligations, and Habitat Conservation Plans, shall not be considered available for compensatory mitigation unless the work would demonstrably exceed those existing requirements as determined by the Executive Director, in which case only that exceedance shall so qualify. Applicable landowners shall be included in all discussions concerning potential mitigation (including related to site restoration priorities, goals and objectives, methods, cost, maintenance, etc.), and any agreements between the Permittee and landowners shall be subject to Executive Director review and written approval to ensure that all terms are consistent with the terms and conditions of this CDP.
- d. Design Plans and Construction Methods.** Specification of final mitigation site design and construction methods consistent with identified goals and objectives, including but not limited to:
 - 1. Mitigation Design.** Detailed plans showing final topography, vegetation, and any other significant features characteristic of the intended habitat; and how these connect to the surrounding environment.
 - 2. Site Preparation.** Methods and plans for salvage of any plant and/or seed material (including collection from impact areas, storage, relocation, and/or reestablishment); salvage of any topsoils to be stock-piled and reused in the mitigation area; any demolition, debris removal, grading, decompaction, soil amendment, or other substrate-affecting activities; erosion control measures; and treatment of invasive species.
 - 3. BMPs.** Detailed list of all BMPs that will be implemented as part of project implementation, including triggers for further or remedial action.
 - 4. Revegetation Plans.** Details on plant palettes; stocks and seed mixes; material sourcing including verification of local and genetically appropriate nature; any proposed irrigation including rationale, method, and schedule; and provisions for removal of any temporary infrastructure following plant establishment.
 - e. Invasive Species Control.** Provision for continued control of all California Invasive Plant Council-listed species at a specified cover threshold within the project footprint and mitigation areas, including a description of monitoring and control methods. If any herbicide is proposed for potential use, rationale for why it would constitute the least environmentally damaging alternative and detail on the specific products that would be used, including its certification by the California Department of Pesticide Regulation and

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allowance for the intended application, and detail on how it would be used to minimize adverse effects (e.g., thresholds for and frequencies of treatment).

- f. **Local Plant Species.** All revegetation shall include, at a minimum, replanting with locally and genetically appropriate native plant species for the Monterey Bay Dune Complex, where documentation of all plant material sources shall be provided.
- g. **Monitoring Plan.** Detailed plan for quantitatively monitoring the condition and progress of the mitigation site(s) during both the initial mitigation phase as well as over the long-term at reduced frequency and intensity; performance relative to set criteria, as informed by robust sampling and statistics; triggers for adaptive management action; and reporting. Specifically:
 1. **Monitoring Frequency.** During the initial phase of no less than five years or three years following cessation of all remedial measures except weeding, whichever is longer, quantitative monitoring at least once per year during the period of rapid plant growth and flowering, generally in spring or early summer, unless a clear rationale for otherwise is fully presented. Following the determination that final success criteria have been met, long-term monitoring to inform maintenance and adaptive management shall occur at a frequency of no less than five years.
 2. **Success Criteria.** Final success criteria supported by interim criteria, the latter of which are intended to serve as benchmarks and guide adaptive management, whereas the former will enable measure of mitigation success. Criteria shall have a clear empirical basis (i.e. reference sites and/or published technical literature appropriate for the local area) and generally include representativeness of target vegetation communities (e.g., species composition, cover, structure, diversity, and presence of major structure-producing and habitat-defining species); physical parameters such as topography, bare substrate, and hydrology; and target wildlife support functions or usage. Criteria may be fixed values where there is a strong empirical basis, but, where feasible, should be relative to high-functioning reference sites in order to account for environmental variability. Reference sites shall be located within the Monterey Bay Dunes Complex; shall be similar to the mitigation site with regard to soil type, aspect, slope, and other relevant abiotic characteristics; and shall be identified, sampled, and quantitatively described as a component of the monitoring plan. Invasive species ranked by the California Invasive Plant Council as “high” shall not exceed a total of 1% cover, and all ranked invasives shall not exceed a total of 5% cover.
 3. **Performance Assessment.** Methods for judging mitigation success shall include supporting rationale for their selection and be specified in terms of the types of comparison, including whether relative to fixed criteria or reference sites; identification of any reference sites that will be used; tests of similarity; specification of the maximum allowable difference or effect size between the mitigation value and

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the reference value for each success criterion; and where statistical tests will be employed, statistical power analyses to document that the planned sample sizes will provide adequate power to detect maximum allowable differences (for such a test, alpha must equal beta; these values are typically 0.10 or 0.20, depending on the expected natural variability of the variables of interest).

4. **Sampling Design.** The field sampling program shall be designed in conjunction with the success criteria and selected methods of assessment. The sampling design and methods shall provide sufficient detail to enable an independent scientist to duplicate them, including a description of the randomized placement of sampling units, sampling unit size, planned number of samples, etc.
- h. **Reporting.** All reports shall be prepared by a qualified restoration specialist and submitted to the Executive Director for review and written approval. All such reports shall include raw data and associated metadata in digital format. Required reports include the following:
1. **As-Built Report.** No more than 60 days following completion of mitigation site construction and revegetation activities, an as-built report summarizing mitigation activities to-date, a description of consistency with approved plans, documentation of acreage treated, maps and descriptions any temporary infrastructure installed, photos taken from fixed points, and a description of consistency with all terms and conditions.
 2. **Annual Reports.** Beginning the year after the mitigation project has been installed, annual monitoring reports shall be due by December 31st of each year, including photos taken from fixed points; assessment relative to interim success criteria; a work plan for the subsequent year; and specific recommendations to adaptively manage the effort and facilitate mitigation success. Once a monitoring report is approved by the Executive Director, recommendations identified in the report shall become prescriptive unless otherwise advised in writing. Reports shall also summarize results, document any management actions that have been taken on the mitigation site, and any recommendations for management action going forward.
 3. **Final Annual Report.** A final monitoring report shall be submitted at the conclusion of all mitigation efforts (no sooner than five years following mitigation implementation years, and for at least three years following the conclusion of all remediation and maintenance activities other than weeding, whichever is later) which shall summarize all prior reports; provide a detailed timeline of the overall progress and success; and include sufficient detail to evaluate comprehensive mitigation compliance with the specified goals, objectives, and success criteria set forth in the approved HMMP. If the final report indicates that the mitigation effort has been unsuccessful, in part or in whole, based on the approved final success criteria, the Permittee shall submit within 90 days a revised/supplemental HMMP to compensate

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for those portions of the original program which did not meet the approved success criteria. The revised/supplemental HMMP shall be prepared by a qualified restoration specialist approved by the Executive Director and shall specify measures to remediate those portions of the original approved HMMP that have failed or have not been implemented in conformance with the original approved HMMP. These measures, and any subsequent measures necessary to carry out the approved revised or supplemental HMMP, shall be carried out in coordination with the direction of the Executive Director until the approved revised or supplemental HMMP is established to the Executive Director's satisfaction. If the Executive Director determines that an amendment to the original CDP is necessary to implement the revised/supplemental HMMP, then the Permittee shall submit a complete CDP amendment application immediately to do so.

All requirements above and all requirements of the Executive Director-approved Habitat Mitigation and Monitoring Plan shall be enforceable components of this CDP. The Permittee shall undertake development in conformance with this condition and the approved Habitat Mitigation and Monitoring Plan.

6. **Bus Road Use Plan.** PRIOR TO COMMENCEMENT OF BUS TRANSIT OPERATIONS, the Permittee shall submit two copies of a Bus Road Use Plan to the Executive Director for review and written approval. The Plan shall provide that: (a) any substantial changes to the proposed use of the bus road (i.e., bus transit operations between the hours of 6 am and 10 pm on weekdays, and 7:30 am and 8:30 pm on weekends and holidays, and at 15 minute headways), such as for special events and other special circumstances, shall be accommodated in a manner that protects coastal resources to the maximum extent feasible; (b) all buses used for such bus transit shall be zero emission buses, where documentation shall be provided demonstrating as much (e.g., manufacturer's spec sheets, etc.), except that temporary short-term use of non-zero emission buses is allowed if zero-emission buses are unavailable due to maintenance or other operational issues; and (c) if the bus road ceases to be used in the way authorized by this CDP for a period that exceeds 6 months, then the Permittee shall provide either (1) a plan that reestablishes public transit uses on the bus road; or (2) a plan to remove the bus road and all related development and appropriately restore the affected area to natural conditions, where such plans shall be designed to achieve plan objectives with the least amount of coastal resource impacts, and shall be subject to Executive Director review and written approval. The Bus Road Use Plan shall also specify all measures to maximize the bus's ridership to facilitate transportation and coastal access opportunities, including financial incentives for ridership (e.g., free passes, reduced fares, etc.), culturally-appropriate outreach methods that may include digital, paper, and other media (and translated into non-English languages, particularly Spanish, and written in plain language), identifying the bus's coastal access opportunities including as identified in the Public Access Management Plan, and any other means to facilitate coastal access for underserved/inland populations. The Plan may include partnerships with local organizations that help underserved communities access the coast, and shall be designed in order to facilitate such access. Every 2 years

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after commencement of bus road operations, the Permittee shall provide a report to the Executive Director documenting bus road usage trends and identify ways to increase ridership and coastal access. Use of the bus road for anything other than bus and/or rail public transit shall be prohibited. All requirements above and all requirements of the Executive Director-approved Bus Road Use Plan shall be enforceable components of this CDP. The Permittee shall undertake bus transit operations in conformance with this condition and the approved Bus Road Use Plan.

- 7. Dune Resiliency Plan.** WITHIN FIVE YEARS OF THE DATE OF THE APPROVAL OF THIS CDP (i.e., no later than September 12, 2029), the Permittee shall submit two copies of a Dune Resiliency Plan (Plan) to the Executive Director for review and approval. The Plan shall establish the framework and parameters for: (1) monitoring dune erosion and other coastal hazards at the site and nearby off-site area and management responses to those hazards and resources both on- and off-site; (2) identifying how those hazards are affecting the operations of the bus road; (3) identifying changes necessary to allow continued appropriate and required functioning of the bus road in light of coastal hazard concerns/requirements; and (4) identifying 'triggers' to establish when actions (such as additional dune restoration and potential bus road relocation, but not including any form of shoreline armoring) need to be pursued. Upon Executive Director approval of the Resiliency Plan, the Permittee shall submit a monitoring report detailing the condition and plan for the bus roadway in relation to the triggers specified in the Dune Resiliency Plan every 5 years, or following coastal hazard events that necessitate an interruption of bus service within the project footprint, whichever occurs first. Each such report shall include and describe changes since the prior report, as well as cumulatively describing changes over time. Extension to the five year deadline for submittal of the Dune Resiliency Plan may be granted by the Executive Director for good cause.
- 8. Archaeological and/or Tribal Cultural Resource Protection.** The Permittee shall undertake the approved project in compliance with the following measures to protect archaeological and/or tribal cultural resources to the maximum extent feasible:

 - a. Notification.** At least one month prior to commencement of any ground-disturbing construction activities, the Permittee shall: (1) notify the representatives of Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list; (2) invite all Tribal representatives on that list to be present and to monitor ground-disturbing activities; and (3) arrange for any invited Tribal representative that requests to monitor and/or a qualified archaeological monitor to be present to observe project activities with the potential to impact archaeological and/or tribal cultural resources.
 - b. Monitoring.** A qualified, locally experienced archaeologist and a tribal monitor, approved by relevant tribes shall be on site to monitor all activities with the potential to impact archaeological and/or tribal cultural resources, including all ground disturbing activities. The monitors shall have experience monitoring for archaeological resources

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of the local area during excavation projects, be competent to identify significant resource types, and be aware of recommended tribal procedures for the inadvertent discovery of tribal cultural and/or archaeological resources and/or human remains.

- c. **Discovery Protocol.** If any tribal cultural deposits are discovered during the course of the project, all construction within 200 feet of such deposits shall cease and shall not recommence until a qualified cultural resource specialist (which could be a persons identified in subpart (b), above), in consultation with the relevant tribes, analyzes the significance of the find and, if deemed significant, prepares a supplementary archaeological plan for the review and approval of the Executive Director that evaluates and provides suggested measures related to the discovery. The Executive Director shall review the plan and either: (1) approve it and determine that its recommended changes to the project or mitigation measures do not necessitate an amendment to this CDP, or (2) determine that the changes proposed therein necessitate a CDP amendment. The location of any and all identified archaeological and tribal cultural resources shall be kept confidential, and only those with a “need to know” shall be informed of their locations.
- d. **Human Remains.** Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and/or tribal monitor shall notify the Monterey County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. If the County Coroner determines that the human remains are those of a Native American, the Coroner shall contact the NAHC within 24 hours, pursuant to Health and Safety Code Section 7050.5. The NAHC shall deem the Native American most likely descendant (MLD) to be invited to participate in the identification process pursuant to Public Resources Code Section 5097.98. The Permittee shall comply with the requirements of Section 5097.98 and work with the MLD person(s) to discuss and confer with the descendants all reasonable options regarding the descendants' preference for treatment. Within five (5) calendar days of notification to NAHC, the Permittee shall notify the Coastal Commission's Executive Director of the discovery of human remains. The Executive Director shall maintain confidentiality regarding the presence of human remains on the project site.
9. **Future Permitting.** Any and all future proposed development related to this project, this project area, and/or this CDP shall be subject to the Coastal Commission's continuing CDP jurisdiction. This CDP authorizes limited future repair, maintenance, and/or improvement development that is determined by the Executive Director to: 1) fall within the overall scope and intent of this CDP; and 2) not have any significant adverse impacts to coastal resources. Any development that the Executive Director determines does not meet such criteria shall require a separate CDP or a CDP amendment, as directed by the Executive Director.

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- 10. Public Rights.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that the Coastal Commission's approval of this CDP shall not constitute a waiver of any public rights that may exist on the affected property, and that the Permittee shall not use this CDP as evidence of a waiver of any public rights that may exist now or in the future.
- 11. Other Agency Approvals.** PRIOR TO CONSTRUCTION, the Permittee shall provide to the Executive Director copies of all other permits, permissions, or other authorizations from the Transportation Agency for Monterey County, California State Parks, California Transportation Commission, California Public Utilities Commission, California Department of Transportation, California Department of Fish and Wildlife, and United States Fish and Wildlife Service, or evidence that no permits, permissions, or other authorizations from these agencies are required. The Permittee shall inform the Executive Director of any changes to the Commission-approved project required by other agencies. Such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this CDP, unless the Executive Director issues a written determination that no amendment is legally required.
- 12. Minor Changes.** The Permittee shall undertake development in conformance with the terms and conditions of this CDP, including with respect to all Executive Director-approved plans and other materials, which shall also be enforceable components of this CDP. Any proposed project changes, including in terms of changes to identified requirements in each condition, shall either (a) require a CDP amendment, or (b) if the Executive Director determines that no amendment is legally required, then such changes may be allowed by the Executive Director if the Executive Director determines that such changes: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.
- 13. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (a) that the project area may be subject to coastal hazard risks at some point during the permitted development's lifetime, including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunamis, coastal flooding, sea level rise, landslides, earth movement, geologic instability, and the interaction of same, many of which will worsen with future sea level rise; (b) to assume all risks, including coastal hazard risks, to the Permittee and the property that is the subject of this CDP of injury and damage from such risks in connection with the permitted development; (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such risks; (d) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of this project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims due to hazard or other risks), expenses, and amounts paid in settlement arising from any injury or damage; (e) that any adverse effects to properties caused by the permitted development shall be fully the responsibility of the Permittee; (f) to prohibit shoreline armoring (including

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but not limited to seawalls, revetments, retaining walls, gabion baskets, tie backs, piers, groins, caissons/grade beam systems, etc.) to protect any portion of the permitted development; (g) to waive any rights to construct shoreline armoring that may exist under Coastal Act Section 30235 and/or certified LCPs for the City of Marina, the City of Sand City, and Monterey County, or any other applicable laws; and (h) that no portion of the permitted development qualifies as an “existing structure” for purposes of Section 30235 and the above-listed LCPs.

14. Liability for Costs and Attorneys’ Fees. The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys’ fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and/or (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this CDP, the interpretation and/or enforcement of CDP terms and conditions, or any other matter related to this CDP. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.