

Refugio Bridge Replacement Project
EA No. 05-1C950
EFIS No.0513000018
Cooperative Agreement No. 05-0440

COOPERATIVE AGREEMENT

This AGREEMENT, ENTERED INTO on _____, 2024, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as “CALTRANS,” and the

SANTA BARBARA COUNTY, referred to herein as “SBC”

RECITALS

1. CALTRANS and SBC, herein referred to as “PARTIES,” pursuant to Streets and Highways Code sections 114 and 130, are authorized to enter into this Agreement.
2. CALTRANS is replacing the existing Refugio Road Bridges on U.S. Highway 101, removing the partial barrier to fish passage to enhance habitat conditions along the bed of Cañada del Refugio Creek, upgrading the bridge railing, and other improvements (hereinafter “the Project”.) To mitigate against environmental impacts, CALTRANS obtained permits and agreements from seven agencies, including California Coastal Commission, Coastal Development Permit (CDP) No. 4-22-0459. The PARTIES have entered into this Cooperative Agreement to satisfy some of the requirements in CDP No. 4-22-0459.
3. CDP No. 4-22-0459, Special Condition 3, required CALTRANS to pay a \$75,000 fee to SBC to design, plan, and/or construct Paradiso del Mare Trail, and indicated it is part of a segment of the Gaviota Coast Trail. CALTRANS has written concurrence from California Coastal Commission (CCC), referred to herein as CDP 4-22-0459 and by this reference incorporated herein, that by paying a fee towards the design, planning, and/or construction of the Paradiso del Mare Trail, referred to herein as MITIGATION PROJECT, that this will satisfy in full CDP No. 4-22-0459, Special Condition 3.
4. CALTRANS has determined that the estimated cost of satisfying the Public Access Mitigation Impact for the Refugio Bridge Replacement Project (05-1C950) is \$75,000.00 as described in **Exhibit A**, CDP No. 4-22-0459, Section 3 Public Access Mitigation, attached hereto and made a part of this Agreement.
5. PARTIES now agree to and define herein below the terms and conditions under which this Agreement will be implemented.

SECTION I

SBC OBLIGATIONS:

1. To use one hundred percent (100%) of CALTRANS' funds provided pursuant to this Agreement, towards the design, planning, and/or construction of the Paradiso del Mare Trail.
2. To submit an invoice to CALTRANS, within thirty (30) days of the execution date of this Agreement, in the amount of \$75,000.00 which amount represents CALTRANS' total financial obligation as set forth in this Agreement. This lump sum payment is required by CDP No. 4-22-0459.
3. If the work performed under this Agreement is done under contract and falls within the Labor Code section 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771, SBC must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7.
4. To include prevailing wage requirements in its contracts for public work. Work performed by SBC's own forces is exempt from the Labor Code's Prevailing Wage requirements.

SBC shall require its contractors to include prevailing wage requirements in all subcontracts funded by this Agreement when the work to be performed falls within Labor Code sections 1720(a)(1) definition of "public works" or maintenance work under Labor Code section 1771. Subcontracts shall include all prevailing wage requirements set forth in SBC's contracts.

5. SBC shall provide annual written reports to the Executive Director of the CCC on the progress made toward completion of the Paradiso Trail.

SECTION II

CALTRANS OBLIGATIONS:

1. To pay SBC within thirty (45) calendar days of receipt of SBC's signed invoice, the amount of \$75,000.00 which represents CALTRANS' total financial obligation as set forth in this Agreement.

2. CALTRANS will obtain written confirmation from CCC that CDP No. 4-22-0459 requirements have been met and provide a copy to SBC.

SECTION III

IT IS MUTUALLY AGREED:

1. All obligations of CALTRANS under the terms of this Agreement are subject to the appropriation of resources by the Legislature, State Budget Act authority and the allocation of funds by the California Transportation Commission (CTC).
2. All applicable laws, rules and policies relating to the use of state funds shall apply notwithstanding other provisions of this Agreement.
3. Neither SBC nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CALTRANS and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this agreement. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless SBC and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS and/or its agents under this agreement.
4. Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SBC, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SBC under this agreement. It is understood and agreed that SBC, to the extent permitted by law will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by SBC, its contractors, sub-contractors, and/or its agents under this agreement.
5. In the event of any breach of this Agreement by either party, the other party may enforce this Agreement by any means available at law or in equity. In the event of litigation, mediation or arbitration to resolve any breach of, or dispute related to this Agreement, each party agrees to pay for their own attorneys' cost and expenses, without regard to who prevails.
6. A failure by either party to enforce any provision of this Agreement shall not be construed as a continuing waiver, or as a waiver of the right to compel enforcement of that provision.

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Cooperative Agreement No. 05-0440

7. This Agreement may be executed in several counterparts and all counterparts so executed shall constitute one agreement that shall be binding on all of the parties, notwithstanding that all of the parties are not a signatory to the original or the same counterpart. If any provision of this Agreement is held invalid, the other provisions shall not be affected thereby.
8. No alteration or variation of the terms of this Agreement shall be valid unless made by a formal amendment executed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
9. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not party to this Agreement or to affect the legal liability of either party to the Agreement by imposing any standard of care different from the standard of care imposed by law.
10. This Agreement shall terminate upon CALTRANS' satisfaction of its total financial obligation as set forth in this Agreement. However, all indemnification, document retention, audit, claims, environmental, legal challenge, hazardous material, operation, maintenance, and ownership articles will remain in effect until terminated or modified in writing by mutual agreement PARTIES are empowered by CA Streets and Highways Code Section 114 and 130 to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this Agreement on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Agreement.

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Contacts

CALTRANS

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San Luis Obispo, CA 93401

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COUNTY OF SANTA BARBARA

Jill Van Wie, Capital Program Manager

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STATE OF CALIFORNIA
Department of Transportation

COUNTY OF SANTA BARBARA

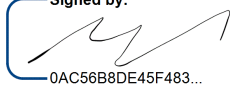
By: _____
Scott Eades
District Director

By: _____
Steve Lavagnino, Chair,
Board of Supervisors

Approved as to form and procedure:

Approved as to form:

Attorney
Department of Transportation


Signed by:

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Rachel Van Mullem
Deputy County Counsel

Certified as to budgeting of funds:

Approved as to form:

Cheryl Berry
District Budget Manager

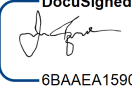
Signed by:

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Greg Milligan
Risk Manager

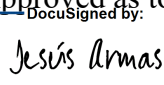
Certified as to financial terms and policies:

Approved as to Accounting form:

Lai Saephan
Accounting Administrator

DocuSigned by:

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Betsy Schaffer, CPA, CPFO
Deputy Auditor-Controller

Approved as to form:
DocuSigned by:

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Jesús Armas
Director, Community Services Department

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CALIFORNIA 93001-2801
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June 02, 2023

Permit Application Number: **4-22-0459****COASTAL DEVELOPMENT PERMIT**

On April 13, 2023, the California Coastal Commission granted to **California Department of Transportation (Caltrans)** this permit subject to the attached Standard and Special conditions, for development consisting of: **replace the existing two-span Refugio Road Undercrossing Bridges with new clear span bridges, standard bridge railings and shoulder, the degraded lighting system in the project area, as well as the railings on northbound on-ramp bridge over Cañada del Refugio Creek; maintain a Class III bicycle lane in both directions; reconstruct portions of Refugio Road, including restoration of a portion of public parking that was lost due to installation of unpermitted "No Parking" signs; and improvement of existing pedestrian trail along Refugio Road that leads to the Refugio State Beach entrance; improve steelhead trout migration in Cañada del Refugio Creek by removing existing rock slope protection; and relocate existing underground water line and aboveground fiber optic cable, more specifically described in the application filed in the Commission offices.**

The development is within the coastal zone at **northbound and southbound U.S. Highway 101 at the crossing of Refugio Road and Cañada del Refugio Creek near Refugio State Beach (at Postmile [PM] 36.6, between PM 36.0-R37.0), Santa Barbara County**

Issued on behalf of the California Coastal Commission by

Sincerely,

Kate Huckelbridge, PhD
Executive Director

A handwritten signature in black ink, appearing to read "Jordan Sanchez".

Jordan Sanchez
Senior Transportation Program Analyst

cc: Commissioners/File

Coastal Development Permit
4-22-0459

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part of that: "A Public entity is not liable for injury caused by the issuance... of any permit..." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date: 6/5/23

Signature: 

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 Project Plans.** PRIOR TO ISSUANCE, the Permittee shall submit two full-size sets of the Final Project Plans to the Executive Director for review and written

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approval, including a parking signage plan. Caltrans shall install signage in the County right-of-way affirmatively showing the locations of the public parking on Refugio Road. Any proposed changes to the approved Final Project Plans by the Permittee, including to the approved parking signage, parking locations, and/or quantity of parking spaces, such as through the installation of signage, shall be reported to the Executive Director. Minor adjustments to the approved Final Project Plans may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary by the Executive Director; and (2) do not adversely impact coastal resources.

2. Habitat Mitigation and Monitoring Plan. NOT LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT, including major vegetation removal, the Permittee shall submit, for review and written approval of the Executive Director, a final revised Habitat Mitigation & Monitoring Plan (HMMP) that shall substantially conform to the draft HMMP submitted on March 17, 2023, except as modified herein:

(a) Planting Plans for Riparian Corridor Widening. The final plan shall include detailed planting plans for the areas of riparian corridor widening, as depicted in Appendix D of the draft HMMP. Planting plans shall list all potential species that will be planted in the riparian corridor, and depict the expected layout of trees, shrubs, and understory vegetation that will be planted.

(b) Reporting on Fish Passage Improvements. The final plan shall include provisions for reporting the outcomes of fish passage monitoring and performance, including consultations with National Marine Fisheries Service (NMFS), as part of annual monitoring reports submitted to the Executive Director.

The Permittee shall undertake development in accordance with the approved HMMP. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Commission-approved amendment to this CDP unless the Executive Director determines that no amendment is legally required.

3. Public Access Mitigation Project.

(a) WITHIN 1 YEAR OF APPROVAL OF THIS CDP, and with prior document review and approval by the Executive Director, the Permittee shall submit written documentation that demonstrates representatives of Caltrans and Santa Barbara County ("County") have entered into an Interagency Cooperative Agreement ("Cooperative Agreement") consistent with the requirements of this CDP and its Special Conditions, including subsections (b) and (c) below.

(b) Within two years of approval of this CDP, the Permittee shall submit to the Executive Director evidence that Caltrans has provided funding to the County in the amount of

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\$75,000 to be used toward the design, planning, and/or construction of the Paradiso Trail consistent with the Cooperative Agreement described herein. The Executive Director may extend this deadline for good cause.

(c) The Cooperative Agreement between Caltrans and the County shall include the following minimum provisions:

i) The Cooperative Agreement shall indicate that the Paradiso Trail is part of a segment of the Gaviota Coast Trail that will be designed, permitted, constructed, and maintained by the County of Santa Barbara or another non-profit agency approved by the Executive Director.

ii) The Cooperative Agreement shall include provisions to address any failure by Caltrans or the County to implement the Cooperative Agreement in a manner consistent with this permit, including but not limited to any subcontracting of the project (or portions of it) to an alternate entity able to implement the Agreement, or if approved by an amendment to this CDP, to design, plan and/or construct alternative public access improvements if the design, planning, and/or construction of the trail for which the \$75,000 in mitigation funds are utilized cannot feasibly be completed within 10 years of issuance of this CDP.

iii) Unless resolved by the Executive Director of the Commission, any dispute concerning compliance with, or interpretation of, any provision of the Cooperative Agreement affecting the implementation of the Cooperative Agreement consistent with the requirements of this CDP shall be resolved by the Coastal Commission.

iv) The Cooperative Agreement shall provide for annual written reports by the County of Santa Barbara to the Executive Director of the Coastal Commission on the progress made toward the completion of the Paradiso Trail.

4. Final Stormwater Pollution Prevention Plan. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit two copies of the Final Stormwater Pollution Prevention Plan (SWPPP) to the Executive Director for review and written approval. The SWPPP shall include all housekeeping, source control, and treatment control best management practices (BMPs) that will be used during construction and shall be updated as needed to reflect progression and phasing of the project. The Permittee shall undertake development in accordance with the approved SWPPP. Minor adjustments to the approved SWPPP may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary by the Executive Director; and (2) do not adversely impact coastal resources.

5. Construction Requirements. The Permittee shall undertake construction in accordance with the following construction requirements:

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(a) **Construction Areas.** Areas within which construction activities and staging are approved to take place by this CDP shall be minimized in size and shall be sited and designed to avoid impacts on coastal waters and aquatic life, and to the extent feasible public access to Refugio State Beach (including safe multimodal access through and/or around the project site). Construction (including but not limited to storage of materials and/or equipment) is prohibited outside of the defined construction, staging, and storage areas.

(b) **Construction Methods and Timing.** Methods shall be used to keep the construction areas separated from public recreational use areas, including using unobtrusive fencing or equivalent measures to delineate construction areas. During construction, in-stream work shall only take place between June 1st and October 31st in any given year, when the surface water within drainages is likely to be dry or at seasonal minimum. Deviations from this work window may only be made with written permission from the Executive Director.

(c) **Construction Best Management Practices (BMPs).** No construction material, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters, or be subject to wind, rain, or other erosion or dispersion. Any debris resulting from construction activities shall be removed immediately. Any debris inadvertently discharged into coastal waters shall be recovered immediately and disposed of consistent with the requirements of this CDP.

(i) Any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or designated staging areas. Mechanized heavy equipment and other vehicles used during the construction process shall not be refueled or washed within 100 feet of coastal waters. If refueling or washing must occur within 100 feet of coastal waters, the area must be surrounded by barriers to prevent discharge.

(ii) Fuels, lubricants, and solvents shall not be allowed to enter coastal waters, sensitive habitat, or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered firstresponse, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up.

(iii) BMPs shall be implemented to control erosion from the disturbed area and prevent sediment and potential pollutants from entering coastal waters and/or sensitive habitat.

(d) **Restoration.** All construction debris shall be removed. All beach areas, other public recreational access and use areas, and all beach access points impacted by

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construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. If native soils are removed as part of the construction debris, the removed material shall be screened to separate native soil from the construction debris. The native soils shall be returned to the site after all construction debris has been screened out from it.

(e) **Construction Site Documents.** The Construction Plan shall require 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, as well as the public review requirements applicable to them, prior to commencement of construction.

(f) **Construction Coordinator.** The Construction Plan shall require that a construction coordinator be designated as the point of contact during construction should questions arise regarding the construction in case of both regular inquiries and emergencies. The construction coordinator's contact information, i.e., address, phone numbers, email, etc., including, at a minimum, an email address and a telephone number that will be made available 24 hours a day for the duration of construction, shall be 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. This information shall indicate that the construction coordinator should be contacted in case of questions regarding the construction for both regular inquiries and emergencies. The construction coordinator shall record the name and contact information, i.e., 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. Any complaints and all actions taken in response shall be summarized and provided to the Executive Director on at least a weekly basis.

(g) **Construction Specifications.** The construction specifications and materials shall include appropriate control provisions that require remediation for any work done inconsistent with the terms and conditions of this CDP.

(h) **Notification.** The Permittee shall notify staff of the Coastal Commission's South 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 approved Construction Plan shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Construction Plan. Minor adjustments to the above requirements, as well as to the Executive Director-approved Construction Plan, which do not require a CDP amendment as determined by the Executive Director, may be

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allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

6. Biological Monitoring, Avoidance, and Minimization Measures. To avoid and minimize impacts to sensitive species and their habitats, the Permittee shall implement all biological monitoring, avoidance, and minimization measures detailed in Exhibit 14 and as supplemented with the following:

a. **Sensitive species monitoring.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall retain the services of a qualified biologist or environmental resources specialist (hereinafter, "environmental specialist") with appropriate qualifications acceptable to the Executive Director, to monitor the site during construction activities and conduct surveys of sensitive species and to monitor all project operations. The Permittee shall submit the contact information and qualifications of all monitors with a description of their duties and their on-site schedule to the Executive Director for review and approval. Should a biological monitor identify any sensitive species that could be adversely affected by construction activities, construction work shall be halted and the Permittee shall contact the appropriate resource agency (USFWS, CDFW, or NMFS) to determine an appropriate course of action. For the purpose of this special condition, "sensitive species" shall be taken to mean any special-status wildlife species. Special-status species are species listed as: Endangered, Threatened, or Rare under the federal or state Endangered Species Acts; Candidate Species, California Fully Protected Species, and, pursuant to CEQA Guidelines Section 15380(d), all other species tracked by the California Natural Diversity Database (CNDDDB), which are considered by the California Department of Fish and Wildlife to be those species of greatest conservation concern (e.g. S1-S3 and G1-G3 Listed Species), and locally important species including: raptors, steelhead trout, red legged frogs, tidewater gobies, western pond turtles.

b. **Nesting Bird Monitoring and Avoidance.** The applicant shall comply with nesting bird monitoring and avoidance measures including, but not limited to, the following provisions:

i. If project activities must occur during bird nesting season (February 1 through September 15), a qualified biologist with experience conducting bird surveys shall survey for active nests of any federally or state listed threatened or endangered species, species of special concern, fully protected species, species with global rarity rankings of G1-G3 and/or state rarity rankings of S1-S3, or any species of raptor or wading birds, within 7 days prior to commencement of project activities, and once a week thereafter during construction, to detect any such activity within 500 feet of the project area.

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- ii. If an active nest(s) of any of the above species is located within 300 feet of construction activities (500 feet for raptors), the qualified biologist shall halt construction activities to enable the applicant to employ best management practices (BMPs) to ensure that construction activities do not disturb or disrupt nesting activities.
- iii. If construction activities must occur within the required buffer area, the Permittee may propose an alternative plan for avoidance of nesting birds for the Executive Director's concurrence.
- iv. Results of nesting bird surveys, ambient noise studies, and any follow-up construction avoidance measures shall be documented in monthly reports by the qualified biologist and submitted to the Coastal Commission Executive Director throughout the bird breeding season.

7. Coastal Hazards Risk. By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, to all of the following: (a) that the site may be subject to coastal hazards, including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tsunami, tidal scour, coastal flooding, fluvial flooding, landslides, bluff and geologic instability, bluff retreat, liquefaction, and the interaction of same, many of which may worsen with future sea level rise; (b) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this 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 hazards; and (d) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

8. Protection of Archeological and Tribal Cultural Resources. The Permittee shall undertake development in compliance with the following mitigation measures to protect archaeological resources:

(a) AT LEAST TWO WEEKS PRIOR TO COMMENCEMENT OF ANY GROUND-DISTURBING CONSTRUCTION ACTIVITIES, the Permittee shall (i) notify the Native American Heritage Commission (NAHC) designated Tribal Representatives (as listed in table 4.5 NAHC Representative Contacts on page 252 of the Environmental Impact Report) of the Barbareno / Ventureno Band of Mission Indians, Coastal Band of the Chumash Nation, and Santa Ynez Band of Mission Indians; (ii) invite Tribal Representatives to be present and to monitor ground-disturbing activities; and (iii) arrange for a qualified Archeological Monitor and a Tribal Monitor to be present to observe ground-disturbing activities in those construction segments mapped and

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approved through Tribal consultation as requiring cultural monitoring. The Monitor(s) shall have experience monitoring for archaeological resources 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 archaeological resources and human remains.

(b) If an area of archaeological resources is inadvertently discovered during ground-disturbing activities, including, but not limited to, concentrations of prehistoric artifacts (e.g., chipped chert, arrow points, groundstone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites (e.g., midden with or without shell), concentrations of fire-altered rock and/or burned or charred organic materials, etc., all construction shall cease and shall not recommence except as provided in subsection

(c) hereof, and the Permittee shall retain a qualified archaeologist to analyze the significance of the find, in consultation with the above-referenced Tribal Representatives to be incorporated into the Supplementary Archaeological Plan described below. The archaeologist shall immediately notify all of the Tribal Representatives. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area that includes a reasonable buffer zone recommended by the Monitor(s). Construction may continue outside of the exclusion zone. (c) A Permittee seeking to recommence construction within the exclusion zone following discovery of the archaeological resources shall submit a Supplementary Archaeological Plan (SAP), prepared in consultation with the Tribal Representatives, that proposes mitigation measures to avoid impacts to the resource for the review and written approval of the Executive Director. If the Executive Director approves the SAP and determines that the SAP's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director in writing. If the Executive Director approves the SAP but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

9. Other Agency Approvals. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit to the Executive Director for review a copy of a valid permit, letter of permission, or evidence that no permit is necessary from all other entities with review authority over the proposed project, including at a minimum the U.S. Army Corps of Engineers, the Regional Water Quality Control Board, and the California Department of Fish and Wildlife. The Permittee shall inform the Executive Director of any changes to the project required by any other such authorizations. Any such changes shall not be incorporated into the project until the Permittee obtains an amendment to this CDP, unless the Executive Director determines that no amendment is legally required.