

Attachment B

This page intentionally left blank.

When recorded return to:
COUNTY OF MONTEREY HOUSING
AND COMMUNITY DEVELOPMENT
DEPARTMENT - PLANNING
Attn: **PHILIP ANGELO**
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901
(831) 755-5025

Space above for Recorder's Use

Owner Name: MONTEREY BAY AQUARIUM
RESEARCH INSTITUTE, A
CALIFORNIA NON-PROFIT
CORPORATION
Permit No.: PLN210093
Resolution No.: 22-008
APN: 133-232-001-000
Project Planner: Philip Angelo

The Undersigned Grantor(s) Declare(s):
DOCUMENTARY TRANSFER TAX OF \$ 0
☐ computed on the consideration or full value of
property conveyed, OR
☐ computed on the consideration or full value less
value of liens and/or encumbrances remaining at
time of sale,
☐ unincorporated area; and
☒ Exempt from transfer tax,
Reason: Transfer to a governmental entity



Signature of Declarant or Agent

CONSERVATION AND SCENIC EASEMENT DEED (COASTAL)

THIS DEED made this 30th day of Sept., 2022, by and between
MONTEREY BAY AQUARIUM RESEARCH INSTITUTE, A CALIFORNIA NON-PROFIT
CORPORATION as Grantor, and the COUNTY OF MONTEREY, a political subdivision
of the State of California, as Grantee,

WITNESSETH:

WHEREAS, said Grantor is the owner in fee of the real property more particularly
described in Exhibit "A" attached hereto and made a part hereof, situated in Monterey
County, California (hereinafter the "Property"); and

WHEREAS, the Property of said Grantor has certain natural scenic beauty and
existing openness; and

WHEREAS, the Grantor and the Grantee desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of the Property of the Grantor; and

WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the "Act") requires that any coastal development permit approved by the County must be consistent with the provisions of the certified Local Coastal Program (LCP); and

WHEREAS, pursuant to the Act, and the LCP, Grantor applied to the County for a permit to undertake development as defined in the LCP; and

WHEREAS, a **Combined Development Permit** (File Number **PLN210093**) (hereinafter referred to as the "Permit") was granted on **April 13, 2022** by the Monterey County **Planning Commission** pursuant to the Findings, Evidence and Conditions contained in Resolution No. **22-008**. That resolution is attached hereto as Exhibit "B" (without plans) and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s):

9. PD022(C) – EASEMENT-CONSERVATION AND SCENIC (COASTAL)

Responsible Planning Department
Department:

Condition/Mitigation Monitoring Measure:	A conservation and scenic easement shall be conveyed to the County over those portions of the property where environmentally sensitive habitat area (coastal dune) exist(s) in accordance with the procedures in Monterey County Code § 20.64.280.A. A Subordination Agreement shall be required, where necessary. The easement shall be developed in consultation with certified professional. An easement deed shall be submitted to, reviewed and approved by the Director of RMA - Planning and the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to recording the parcel/final map or prior to issuance of grading and building permits. (RMA - Planning)
---------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

WHEREAS, the County, acting on behalf of the People of the State of California and pursuant to the Act, and in accordance with the findings contained in the Resolution granted the Permit to the Grantor upon condition (hereinafter the "Condition") described above requiring inter alia, that the Grantor record a conservation and scenic easement (hereinafter "easement") over the Property as shown in Exhibit "C" attached hereto and hereby incorporated by reference, and agree to restrict development on and use of the

Property so as to preserve the open space, scenic, and/or natural resource values present on the Property and so as to prevent the adverse direct and cumulative effects on coastal resources and public access to the coast which could occur if the Property were not restricted in accordance with this easement; and

WHEREAS, the County has placed the Condition on the permit because a finding must be made under the law that the proposed development is in conformity with the provisions of the certified Local Coastal Program and that in the absence of the protections provided by the Condition said finding could not be made; and

WHEREAS, Grantor has elected to comply with the Condition and execute this easement so as to enable Grantor to undertake the development authorized by the Permit; and

WHEREAS, it is intended that this easement is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California Constitution and that said easement shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1; and

WHEREAS, the said Grantor is willing to grant to the County of Monterey the conservation and scenic use as herein expressed of the Property, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of the Property by the Grantor through the imposition of the conditions hereinafter expressed;

NOW, THEREFORE, the Grantor does hereby grant and convey unto the County of Monterey an estate, interest, and conservation and scenic easement in said real property of Grantor of the nature and character and to the extent hereinafter expressed, which estate, interest, and easement will result from the restrictions hereby imposed upon the use of said Property by said Grantor, and to that end and for the purposes of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the said Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Grantor's Property the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. The Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the County of Monterey, State of California, and is particularly described and depicted in

Exhibit "C", attached hereto, and made a part hereof, hereinafter referred to as the "Conservation and Scenic Easement Area".

B. RESTRICTIONS. The restrictions hereby imposed upon the use of the Conservation and Scenic Easement Area by the Grantor and the acts which said Grantor shall refrain from doing upon the Conservation and Scenic Easement Area in connection herewith are, and shall be, as follows:

1. That no structures will be placed or erected upon said Conservation and Scenic Easement Area except symbolic fencing for the protection of dune habitat, low-profile signage denoting the environmentally sensitive habitat area.

2. That no advertising of any kind or nature shall be located on or within the Conservation and Scenic Easement Area.

3. That the Grantor shall not plant nor permit to be planted any vegetation upon the Conservation and Scenic Easement Area, except the restoration of native coastal dune habitat.

4. That, except as caused by climatological processes such as sea level rise, the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made.

5. That no use of the Conservation and Scenic Easement Area which will or does materially alter the landscape or other attractive scenic features of said Property other than those specified above shall be done or suffered.

C. EXCEPTIONS AND RESERVATIONS. The following are excepted and reserved to the Grantor to be implemented consistent with the objectives, purposes and conditions of this easement:

1. The right to maintain and replace in kind all existing underground utilities within the Conservation and Scenic Easement Area.

2. The use and occupancy of the Conservation and Scenic Easement Area not inconsistent with the conditions and restrictions herein imposed.

3. Management of vegetation within the Conservation and Scenic Easement Area in accordance with the Fuel Management Plan approved with the Permit on file with the Monterey County Planning Department.

D. SUBJECT TO APPLICABLE LAWS. Land uses permitted or reserved to the Grantor by this instrument shall be subject to all applicable laws regulating the use of land.

E. BENEFIT AND BURDEN. This grant of conservation and scenic easement shall run with and burden the Property, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the Property from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This grant shall benefit the County of Monterey and its successors and assigns forever.

F. RIGHT OF ENTRY. The Grantee or its agent may enter onto the Property to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor.

G. ENFORCEMENT. Any act or any conveyance, contract, or authorization whether written or oral by the Grantor which uses or would cause to be used or would permit use of the Property contrary to the terms of this grant of easement will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce this grant of easement, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee may pursue any appropriate legal and equitable remedies. The Grantee shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this grant of easement shall be brought in law or in equity. Any forbearance on the part of the Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

H. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Property or any interest or easement created by this grant of easement. All costs and expenses for such maintenance, improvement use, or possession shall be borne by the Grantor, except for costs incurred by Grantee for monitoring compliance with the terms of this easement.

I. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, its agencies, departments, officers, agents, and employees are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging, including Grantor, from any cause or causes whatsoever, except matters arising out of the sole negligence of the Grantee, while in upon, or in any way connected with the Property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its agencies, departments, officers, agents, and employees from all liability, loss, cost, and obligations on account of or arising out of such injuries or losses however occurring. The Grantee shall have no right of control over, nor duties and responsibilities with respect to the Property which would subject the Grantee to any liability occurring upon the Property by virtue of the fact that the right of the Grantee to enter the Property or Conservation and Scenic Easement Area is strictly limited to preventing uses inconsistent with the interest granted, the Property is not "property of a public entity" or "public property," and Grantee's rights herein do not include the right to enter the Property or Conservation and Scenic Easement Area for the purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

J. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this conveyance shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

K. SEVERABILITY. If any provision of this conservation and scenic easement is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed this 30 day of September, 2022, at Salinas, California.

MONTEREY BAY AQUARIUM RESEARCH INSTITUTE, A CALIFORNIA NON-PROFIT CORPORATION

By: [Signature]
(Signature)

Basilio Martinez, CFO
(Print or Type Name and Title)

By: [Signature]
(Signature)

[Signature]
(Print or Type Name and Title)

NOTE TO NOTARY PUBLIC: If you are notarizing the signatures of persons, signing on behalf of a corporation, partnership, trust, etc., please use the correct notary jurat (acknowledgment) as explained in your Notary Public Law Book.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

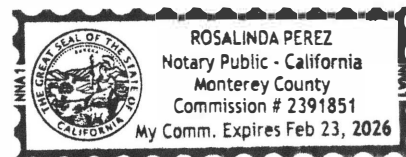
STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

On 9-30-22 before me, ROSALINDA PEREZ, a
Notary Public, personally appeared BASILIO MARTINEZ, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~
subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same
in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rosalinda Perez



(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF MONTEREY)

On _____ before me, _____, a
Notary Public, personally appeared _____, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the deed or grant dated **April 13, 2022** from **MONTEREY BAY AQUARIUM RESEARCH INSTITUTE, A CALIFORNIA NON-PROFIT CORPORATION** to the County of Monterey, a political corporation and/or governmental agency is hereby accepted by order of the Board of Supervisors on _____, (or by the undersigned officer or agent on behalf of the County of Monterey pursuant to authority conferred by resolution of the Board of Supervisors adopted on _____,) and the grantee consents to recordation thereof by its duly authorized officer.

DATED: _____

Glenn Church

Chair, County of Monterey Board of Supervisors

ATTEST:

DATED: _____

Valerie Ralph

Clerk of Said Board

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

[illegible]

On _____ before me, _____, a
Notary Public, personally appeared _____, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

Document Approved to form:
Susan K. Blich, County Counsel

By: Art L. D.

DATED: 6-6-24

Type/Print Name: Robert I. Brayer, Deputy County Counsel

This page intentionally left blank

Exhibit A

This page intentionally left blank.

EXHIBIT "A"
Legal Description

CONSERVATION AND SCENIC EASEMENT

Real property in the County of Monterey, State of California, described as follows:

Being a portion of Parcel I of the lands granted to the Monterey Bay Aquarium Research Institute, a California non-profit corporation by Grant Deed, recorded May 25, 1999 in Document No. 9940022, Official Records of Monterey County, more particularly described as follows:

Beginning at the most westerly corner of said Parcel I; thence from said **POINT OF BEGINNING** the following courses and distances:

Along the southeasterly line of said Parcel I, South 68°15'00" East, 97.19 feet;

Thence leaving said southeasterly line of said Parcel I, the following five courses and distances:

- North 20°18'55" East, 83.03 feet;
- North 66°10'36" West, 7.27 feet;
- North 17°36'24" East, 14.21 feet;
- North 67°03'15" West, 41.41 feet;
- North 21°15'10" East, 1.51 feet, a little more or less, to the northeasterly line of said Parcel I;

Thence along said northeasterly line, North 68°15'00" West, 51.52 feet to the northerly most corner of said Parcel I;

Thence along the northwesterly line South 18°15'00" West, 100.00 feet to the **POINT OF BEGINNING**.

Containing a horizontal area of 9,673 square feet, more or less.

As shown on plat attached hereto and made a part hereof as EXHIBIT "B".

This legal description was prepared by me, or under my direct supervision, in conformance with the requirements of the Professional Land Surveyors' Act.

Exhibit B

This page intentionally left blank.

Exhibit B

Before the Planning Commission in and for the
County of Monterey, State of California

In the matter of the application of:

MONTEREY BAY AQUARIUM RESEARCH INSTITUTE (PLN210093)

RESOLUTION NO. 22-008

Resolution by the County of Monterey Planning
Commission:

- 1) Adopting a Mitigated Negative Declaration pursuant to Section 15074 of the CEQA Guidelines;
- 2) Approving a Combined Development Permit consisting of:
 - a) a Coastal Development Permit to allow the demolition of an existing 20,609 square foot restaurant and marine research facility building and the construction of a two-story 32,900 square foot marine research facility building;
 - b) a Coastal Development Permit for development within 100 feet of environmentally sensitive habitat, (coastal dune); and
 - c) a Coastal Development Permit for a modification in parking standards, by allowing a 10 space reduction in the total required parking for Building G and allowing parking to be considered across the entire MBARI Campus; and
- 3) Adopting a Condition Compliance and Mitigation Monitoring and Reporting Plan.

[PLN210093 MONTEREY BAY AQUARIUM
RESEARCH INSTITUTE (MBARI), 7600
Sandholdt Road, North County Land Use Plan
(APN: 133-232-001-000)]

Corrected on April 27, 2022 (This resolution
corrects the previous resolution mailed on
April 14, 2022)

The Monterey Bay Aquarium Research Institute (PLN210093) was scheduled to come before the County of Monterey Planning Commission on April 13, 2022 at a public hearing. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 1982 Monterey County General Plan;
- North County Land Use Plan (LUP);
- Moss Landing Community Plan (MLCP);
- Monterey County Coastal Implementation Plan Part 2, Regulations for Development in the North County Land Use Plan Area (CIP);
- Monterey County Coastal Implementation Plan Part 1, the Zoning Ordinance (Title 20); and

While they are discussed as separate documents within this resolution to provide clarity on the source of the policies, it should be noted that the MLCP is a section within the LUP. As part of the circulation of the Initial Study prepared for the project, correspondence was received from California Coastal Commission staff identifying potential inconsistencies with the LUP and Coastal Act. This is addressed in Finding No. 7 evidence m). As proposed, mitigated, and conditioned, no conflicts with these plans and regulations were found to exist.

- b) Project Scope. The project includes the demolition of the existing 20,609 square foot structure, which is presently used as a restaurant, Phil's Fish Restaurant and Fish Processing, and as office and support facilities for Monterey Bay Aquarium Research Institute's (MBARI) current operations. The structure would be replaced with a new 32,900 square foot two-story marine research lab building, "Building G" of MBARI's overall campus on Moss Landing Island. The new building would include:

- One science lab;
- Oceanographic instrumentation and testing labs;
- An assembly bay for oceanographic instruments;
- Archival freezers;
- Offices;
- A multi-media center for field programs and training; and
- An exterior deck for instrument testing.

The project scope also includes restoring approximately 0.18 acres (7,841 square feet) of degraded sand dune habitat, and associated onsite improvements, including replacement of hardscaping, stormwater facilities, and connection to existing utilities.

- c) Relation to General Development Plan. "Building G" is one component of MBARI's overall operations. A General Development Plan (PLN080006) for the entirety of MBARI's operations is being processed concurrent with the Moss Landing Community Plan update. However, to meet MBARI's operational goals, they are seeking Coastal Development Permit approval for Building G in advance of review and consideration of the overall General Development Plan. The components of this draft General Development Plan are summarized below to contextualize the current proposal within the framework of existing and potential future development. After the appeal of the County action on PLN120553, the Coastal Commission granted Coastal Development Permit approval for the construction of Building J.1 (the expedition staging building) and the site improvements on site H.1 (Resolution No. A-3-MCO-17-0068). However, the General Development Plan and any future coastal development permitting would be required to go through separate review and approval processes.

MBARI's operations are varied, but in summary they perform marine & oceanographic research using the harbor area as a base of operations, engineer and development instruments for marine research, and perform scientific education and outreach. Their entire campus is located on the "Island" of Moss Landing. A summary of their facilities is broken down below:

Existing Facilities:

- Building A – includes offices, laboratories, and parking.
- Building B – includes labs, a manufacturing facility, office space, and a saltwater test tank for instrument testing.
- Building C – storage storage areas, a small wood shop, and parking for a mobile crane.
- Building D – includes offices, assembly and testing of equipment, and a "high bay" area to store, configure, and test equipment used on MBARI shops.
- Building E – a dock house that provides storage for spare parts and equipment.
- Dock F – A ship dock used to support boat marine expeditions.
- Building G (Existing) – A 20,609 square foot structure occupying a 16,750 square foot footprint. The structure contains a restaurant use, Phil's Fish Restaurant and Fish Processing, which takes up approximately 13,959 square feet of the structure. The remaining 6,650 square feet is used for MBARI operations, and contains science video storage, low temperature freezers, an engineering laboratory, and offices.
- "MARS" Building – a 160 square foot structure which serves as the shore landing for the Monterey Accelerated Research System "MARS" system, a deep water scientific cable observatory.

Approved/Under Construction (A-3-MCO-17-0068/PLN120553):

- Site H.1 – A public parking area. With the exception of an accessible space on the south of the parking area, the area is gravel/unstriped. Provides approximately 23-25 spaces.
- Building J.1 (The Expedition Staging Building "ESB") – A 5,200 square foot staging building containing shipping containers, cranes, forklifts, and heavy equipment. Approximately 5 public parking spaces exist at the end of the existing cul-de-sac which is part of the property.

Proposed (PLN210093):

Building G – 32,900 square foot marine research facility. See evidence b).

Potential Future (Not reviewed or approved as part of this permit):

- Building K – A 7,500 square foot dock house.
- Dock F Expansion – The addition of an approximately 100 square foot mooring dock.

- d) Allowed Use. The property is located at 7600 Sandholdt Road, North County Land Use Plan (APN: 133-232-001-000). The parcel is zoned Light Industrial in the Coastal Zone or “LI (CZ)”, which conditionally allows Marine related research facilities including offices and other reasonable related uses, subject to a Coastal Development Permit. The proposed project includes a marine research lab, marine instrument labs, related offices space, and a multi-media center for field programs and training. These facilities are all either marine research facilities or directly related uses. Therefore, the proposed uses are allowable under the base zoning.
- e) Lot Legality. The property is shown as a Portion of Subdivision 7 (Parcel I) and lot 5 of Subdivision 18 (Parcel II) of Monterey City Lands Tract No. 3 Parcel IV in the 1964 and 1972 County of Monterey Assessor’s map books. Therefore, the County recognizes the property as two legal lots of record.
- f) Development Standards – Base Zoning. The proposed Structure meets the applicable site development standards from the base zoning district, Light Industrial in the Coastal Zone [LI (CZ)]. These can be found in Title 20 Section 20.26.070.

Maximum Height: The maximum structure height is 35 feet from average natural grade, and the proposed height of building G is 35 feet from average natural grade. As the proposed structure is equal to the maximum allowable height, the County’s standard height verification condition has been applied to the project to ensure that the final construction conforms with the maximum height requirement. Mechanical appurtenances, including an exhaust stack, laboratory general exhaust, and a mechanical louver extend above the maximum height. However, this is allowable under the height and setback exception detailed in Title 20 Section 20.62.030.A., which indicates that chimneys, vents, and mechanical appurtenances may be erected to a greater height than that required by the base zoning.

Building Site Coverage: The property is 38,109 square feet, and the maximum allowable building site coverage is 50% (19,055 square feet), while the proposed site coverage is 43% (16,560 square feet).

Setbacks: Within the LI district, setbacks for development without a General Development Plan are established by the Appropriate Authority based on: surrounding land use; provision of adequate parking and landscaping; and other site design features. The surrounding land use context is principally light industrial uses, without a uniform side setback. In this case the side setbacks for the proposed structure were based on compliance with the health and safety requirements of the California Building Code Section CBC 602. The western portion of the property contains environmentally sensitive habitat area (ruderal dune habitat). Non-resource dependent uses are prohibited within environmentally sensitive habitat area, and the boundary of the habitat forms the general boundary of the western setback. The eastern portion of the property is covered by FEMA flood zone A. The structure has

been sited to minimize the amount of development within the flood zone and allow for a front landscaping and parking area. Also see Finding No. 5 for further discussion of the sensitive habitat area, Finding No. 3 for further discussion of the FEMA flood zone, and subsequent evidence g) for discussion of parking.

Landscaping: The LI zoning district requires that all developments have landscaping covering a minimum of 10% of the site area. (3,811 square feet of the 38,109 square foot site) The proposed project includes 3.4% (1,295 square feet) of ornamental landscaping and 20.6% (7,841 square feet) of restored dune habitat. Inclusion of the dune habitat in the landscaping area brings the total percentage to 24% of the site, in excess of the requirement. A restoration plan for the dune habitat is required by Mitigation Measure No. 3, and a requirement for a landscaping plan with appropriate native species from the North County area has been included as a standard condition.

Lighting Plan Requirements: All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled. A standard condition requiring an exterior lighting plan be submitted to HCD-Planning for review and approval prior to issuance of building permits has been applied to ensure compliance with these requirements.

- g) See Finding No. 5 for discussion of consistency with Parking Standards. Visual Resources and Community Character. The North County Land Use Plan (LUP) and Moss Landing Community Plan (MLCP) have policies intended to preserve the visual resources and unique community character of the area, and implementing regulations for these plans are codified in Part 2 of the Monterey County Coastal Implementation Plan. The project, as proposed and conditioned, is consistent with these policies and regulations.

Views: LUP Policy 2.2.2.3 indicates structures shall generally be sited as to not block views of the shoreline, and MLCP Policy 5.6.3.6 details that view of the harbor, Moss Landing community, harbor, and dunes from Highway 1 shall be protected by regulation of landscaping and siting of new development adjacent to the highway to minimize loss of visual access. The propose structure is within substantially the same footprint as the existing structure, and as such would not result in any loss of visual access to the shoreline or dunes from Highway 1.

Structure Design: The objective of MLCP Key Policy 5.6.1 is to conserve the unique visual, cultural, and historic resources of Moss Landing, with MLCP Policy 5.6.7 providing additional policy guidance on design review for proposed development, including that it preserves the cannery character of the area. Development Standards implementing 5.6.7 are in Monterey County Coastal Implementation Plan Section 20.144.160.D.3.d The project is consistent with these policies and design criteria:

- The proposed structure is two stories and thirty-five feet in height, keeping in line with the vertical character of the neighborhood;
- The façade includes porcelain tile resembling wood, and board form wood concrete, responsive to the Standard 20.144.160.D.3.d.2.c that wood be used for exterior façades; and
- Contrasting teal elements are incorporated which reflect the unique nautical character of the area in line with key policy 5.6.1.

Scenic Quality: LUP Key Policy 2.2.1 indicates development within Dune habitats should be prohibited to the greatest extent possible, with MLCP Policy 5.6.2.1 further enumerating that to protect the visual resources of Moss Landing, development should be limited as much as possible in the scenic beach and dune areas of the community. Consistent with both of these policies, the proposed marine research facility is limited to those areas outside of the dune habitat, and further, the approximately 0.18 acres of dune habitat area onsite are proposed to be restored.

- h) Environmentally Sensitive Habitat Area. See Finding No. 6.
- i) Hazardous Areas. See Finding No. 3.
- j) Cultural Resources. The property is mapped as being in an area of high archaeological sensitivity. In accordance with CIP Section 20.144.110.A.1.a, a Phase I archaeological assessment of the property was prepared by Susan Morley dated June 2021 (LIB210227). The phase I included both archival research from the Northwest Regional Information Center and a field survey. Archival research confirmed that there are known sites within a quarter mile (1,320) feet, however, none have been reported within 800 feet of the parcel, including from 13 reports prepared within 750 feet of the property. The field survey did not identify any materials that would indicate the presence of archaeological resources such as shell fragments, bone fragments, or culturally modified soils. the project is not anticipated to have an impact on archaeological resources or human remains. However, there is always the possibility of encountering previously unidentified resources during earthwork and excavation. This potential is controlled by the incorporation of the County's standard condition of approval PD003A, which requires that work be halted if any archaeological resources or human remains are discovered.
- k) Land Use Advisory Committee (LUAC) Review. The project was referred to the North County Land Use Advisory Committee (LUAC) and considered at a public meeting on June 17, 2021. The LUAC expressed concern with the adequacy of on-site parking and with instability due to geotechnical hazards such as liquefaction. At the meeting, representatives of the applicant responded indicating that on-site parking would be provided for all MBARI's 220 employees, and the LUAC recommended approval of the project as proposed 5 – 0 with 3 members absent.
- l) The project planner conducted site inspections on May 24, 2021 and November 18, 2021 to verify that the project on the subject parcel conforms to the plans, policies, and regulations listed above.

- m) The project planner reviewed aerial and street view imagery (Monterey County GIS and Google Earth) to verify that the project on the subject parcel conforms to the plans, policies, and regulations listed above.
- n) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning found in Project File PLN210093.

2. FINDING: SITE SUITABILITY – The site is physically suitable for the proposed development and/or use.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Engineering Services (representing public works), HCD-Environmental Services, Environmental Health Bureau, and North County FPD. County staff reviewed the application materials and plans to verify that the project on the subject site conforms to the applicable plans and regulations, and there has been no indication from these departments/agencies that the site is not suitable for the development. Conditions recommended have been incorporated.
 - b) In evaluating the current project, County staff considered the historical report and traffic impact analysis previously prepared for the MBARI General Development Plan Update (PLN080006). In addition, reports were prepared to assess potential impacts or evaluate consistency with land use plan policies regarding biological resources, coastal hazards, parking, and archaeological resources:
 - “Historic Review of Commercial Property” (LIB090467) prepared by Kent L. Seavey, Pacific Grove, CA, March 1, 2008.
 - “Traffic Impact Analysis” (LIB090458) prepared by Keith Higgins, Pacific Grove, CA, August 15, 2008.
 - “Updated Biological Assessment” (LIB210100) prepared by RANA The Cohabitat Co, Carmel, CA, September 24, 2020.
 - “Geotechnical Investigation” (LIB210101) prepared by Gyimah Kasali, PhD., G.E., San Francisco, CA, June 30, 2021.
 - “Coastal Hazards and Sea-Level Rise Risk Assessment” (LIB210102) prepared by Gary Griffs, Santa Cruz, CA, September, 2020.
 - “Monterey Bay Aquarium Research Institute (MBARI) Parking Study” (LIB210103), Prepared by Raju Associates, Inc., September 3, 2019.
 - “Preliminary Cultural Resources Reconnaissance” (LIB210227), prepared by Susan Morley, Marina, CA, June 2021.

County staff independently reviewed these reports and concurs with their conclusions. There are no physical or environmental constraints that would indicate that the site is not suitable for the use. All development shall be in accordance with these reports.
 - c) Staff conducted site inspections on May 24, 2021 and November 18, 2021 to verify that the site is suitable for this use.
 - d) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning found in Project File PLN210093.

3. **FINDING:** **HEALTH AND SAFETY** – The establishment, maintenance, or operation of the project applied for will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by HCD-Planning, HCD-Engineering Services (representing Public Works), HCD-Environmental Services, Environmental Health Bureau, and North County FPD. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Public Facilities. Necessary public facilities will be provided. The site is served by water and wastewater utilities, who will continue to serve the proposed development. Potable water service is provided by Pajaro Sunny Mesa Community Services District, and wastewater service by Castroville Community Services District. Overall water use & wastewater generation is anticipated to decrease substantially from approximately 209,440 gallons a month to approximately 25,730 gallons a month as a result of the change from a restaurant to a marine research facility, which has a much lower water use intensity. Additionally, Pajaro Sunny Mesa provided a can and will service letter confirming that they would continue to serve the property.
 - c) The North County Land Use Plan (LUP) Section 2.8 Hazards contains policies intended to regulate development and land uses in order to minimize risks to life and property and damage to the natural environment from geologic, flooding, and fire hazards. Implementing regulations for these policies can be found in Monterey County Coastal Implementation Plan (CIP) Section 20.144.100. The project as proposed, conditioned, and mitigated is consistent with these policies as discussed in the proceeding evidence.
 - d) LUP Policy 2.8.3.A.4 indicates that Soil and Geologic reports shall be required for construction of structures in areas of known or suspected Geologic hazards. County of Monterey GIS information maps the property as being in a Tsunami seismic hazard zone and having high erosion and liquefaction susceptibility. In accordance with this policy, a Geotechnical Investigation and a Coastal Hazards and Sea Level Rise Risk Assessment were prepared to evaluate the sites potential geotechnical and coastal hazards, and how they could impact the proposed development:
 - The Geotechnical Investigation “geotechnical report” was prepared by Gyimah Kasali, Ph.D., G.E. (Rutherford + Chekene), and is available in HCD Library File LIB210101.
 - The Coastal Hazards and Sea Level Rise Risk Assessment “coastal hazards analysis” was prepared by Gary Griggs and is available in HCD Library File LIB210102.

The reports concluded that the site was suitable for the proposed development, subject to the recommendations contained within them. A standard condition of approval has been incorporated requiring that the

property owner record a notice indicating that they will comply with the geotechnical reports recommendations. Geotechnical and Coastal Hazards are discussed in the subsequent evidences e) and f), respectively.

- e) Geotechnical Hazards. The geotechnical report also indicates that liquefaction, lateral spreading, and compaction settlement had been observed in the Moss Landing area after a 1906 earthquake and the 1989 Loma Prieta earthquake, and are therefore likely hazards. Further, the soils observed in the preparation of the geotechnical report were sandy, with a soft clay layer underneath, and consolidation observed within the upper twenty-five to thirty feet of the soil layer. Due to these soil conditions, the likelihood for compaction settlement and consolidation induced settlement were determined to be high. If the building were supported with a shallow foundation system, it could result in differential settlement. Therefore, in accordance with the geotechnical report, the project would install a deep foundation system utilizing Auger Cast Piles (ACP's), which are drilled and cast in place, and would penetrate 40 feet, below the observed consolidation. The project would also include ground improvement measures on an approximately 20 foot wide section on eastern portion of the property, adjacent to Sandholdt Road. Ground improvement would consist of installing "stone columns", subterranean vertical stacks of stone which are approximately 24 inches in diameter and would improve soil stability to prevent liquefaction and ensure lateral spreading would not impact the deep pile foundation.
- f) Coastal Hazards. The project is in an area that is subject to multiple coastal hazards, including tsunami risk, sea-level rise, and storm-wave run-up. Each of these hazards are addressed below.

Tsunami Risk: The geotechnical analysis prepared for the project concluded that the potential for tsunami inundation was low, based on previous geological analysis by Gary Griggs.

Sea Level Rise: Utilizing a "medium to high risk aversion scenario" from the 2018 California Coastal Commission Sea Level Rise Policy Guidance Document and applying it to the Moss Landing Island, under a high greenhouse gas emissions scenario, projected sea level rise would be 2.6 feet. This scenario corresponds to the anticipated life-span of the building, approximately 40 years. The highest observed tide in the Moss Landing Harbor was at 8.04 feet*, meaning that the projected sea level would be at 10.64 feet. To mitigate potential impacts from direct flooding and inundation, the report recommends either setting the finish floor 1 foot above the projected 10.64 foot elevation, or that access doors be engineered to be watertight to withstand this potential water level. Raising the finish floor one foot above the projected 10.64 elevation has been incorporated as Mitigation Measure No. 4, reducing the potential direct impact of sea-level rise to the structure to a less than significant level. See also Finding No. 7.

Storm-wave Run-up: Short-term storm events, which are exacerbated by climate change and sea level rise, also have the potential to impact the

site. Wave run up is the elevation reached by a breaking wave when it hits the shore. A documented storm event which resulted in overtopping of the MBARI Building A Sea Wall occurred on January 10, 2005, and had a storm wave run up elevation of 14.76 on the shoreline side, 7 feet above the tide level. Should a similar storm event occur with the projected 2060 10.64 feet sea level elevation, storm waves could have the potential to reach a height of 17.64 feet, which would just crest over the height of the sand dune habitat which runs along the shore west of the proposed structure. The proposed structure is approximately 60 to 70 feet landward of the dune crest, so the coastal hazards analysis concluded that there was no risk of wave energy reaching the base of the building. A supplemental analysis was prepared in September of 2021 which analyzed the potential of extending the building life to 2080 (60 years). Doing so would result in a storm wave run up elevation of 19.4 feet, 1.8 feet higher than the dune crest along the shoreline. The report concludes that the overwash from a storm event could potentially extend to the foundation of the building, but the velocity and energy would be dissipated, and the impact of run up would still be minimal and not have a significant impact on the proposed structure.

Deed Restriction: While Mitigation Measure No. 4 mitigates flooding and inundation to a less than significant level for potential impacts from sea level rise based on the anticipated life of the structure, and the analysis provided concludes that the project would not be subject to storm wave impacts or require coastal armoring for its operational life, what happens to the structure and site past the anticipated life of the building is not contemplated. LUP Policy 2.8.2.6 indicates that in locations determined to have significant hazards, development permits shall include a special condition requiring the owner to record a deed restriction describing the nature of the hazards, and where appropriate, long-term maintenance requirements. The site is in an area known to be subject to coastal hazards, and in accordance with LUP Policy 2.8.2.6, a non-standard condition has been applied requiring the applicant record a deed restriction acknowledging and assuming the risk of coastal hazards, waiving any right to armor the site from such hazards, and prescribing re-location/removal requirements should coastal hazards ever threaten the site. See also Finding No. 7 evidence m).

**all elevations use North American Vertical Datum 1988 / NAVD88*

- g) Floodplain Hazards. LUP Policy 2.8.3.B.3 indicates that all new development shall be located outside of the 100-year floodplain to the maximum extent feasible, and LUP Policy 2.8.2.1 indicates development shall be sited and designed to minimize risk from geologic, flood, tsunami, or fire hazards. The majority of development has been sited outside of the floodplain, however, small sections of the proposed structure are within the Federal Emergency Management Agency (FEMA) 100-year floodplain "Zone A". Zone A is a floodplain area which has been determined by approximate methodologies, without an established base flood elevation. However, the proposed project would utilize fill to elevate the portion of the structure such that it is no longer

within the floodplain. A Conditional Letter of Map Revision based on Fill (CLOMR-F) has been issued to the applicant by FEMA indicating that if the project is constructed as proposed, it would no longer be in the floodplain. HCD-Environmental Services has applied a condition requiring that the applicant submit a final Letter of Map Revision based on Fill (LOMAR-F) from FEMA to HCD-Environmental Services verifying that the structure has been removed from the floodplain prior to building final.

- h) Staff conducted site inspections on May 24, 2021 and November 18, 2021 to verify that the site is suitable for this use.
- i) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning found in Project File PLN210093.

4. FINDING: **NO VIOLATIONS** – The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed County of Monterey HCD-Planning and HCD-Building Services records and is not aware of any violations existing on subject property.
 - b) Staff conducted site inspections May 24, 2021 and November 18, 2021 and researched County records to assess if any violation exists on the subject property.
 - c) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning found in Project File PLN210093.

5. FINDING: **MODIFICATION TO PARKING STANDARDS** – The reduced parking will be adequate to accommodate all parking needs generated by the use, and the modification to allow off-site parking is consistent with Title 20 Section 20.58.

- EVIDENCE:**
- a) Regulations for required parking are found in Title 20 Section 20.58. The calculated number of off-street required parking spaces for the proposed use is 57, while the proposed number of off-street parking spaces is 8. However, Title 20 Section 20.58.050.C allows a reduction in the required number of parking spaces should the reduced parking accommodate all parking needs generated by the use, and Section 20.58.050.D allows the parking spaces to be placed off-site, both subject to the issuance of a Coastal Development Permit. Therefore, the proposed parking spaces is allowable if parking is considered cumulatively throughout the entire MBARI campus, as detailed in the evidences below.
 - b) Zoning Calculation. The required number of parking spaces based on the zoning requirements (57) was calculated as follows:
 - In accordance with 20.58.050A., square footage of uses was based on net floor area for each floor. Spaces used for toilets, restrooms, utilities, stairs, mechanical rooms and duct shafts, maintenances rooms, elevators, and similar spaces were excluded from the

calculation. The square footage of space excluded is 13,063 square feet.

- 20.58.030 indicates that the number of required spaces for uses which do not match a specific use listed in the table 20.58.050 be determined by the Director of Housing and Community Development based on standards established for similar uses. The way uses were calculated is broken out below.
 - The 5,607 square feet of offices, conference room, collaboration, and multimedia spaces were calculated at the Industrial Office rate of 1 space per 300 square feet, resulting in 18.69 spaces required.
 - The 6,214 square feet of laboratories, prep rooms, clean rooms, etc. were calculated at the Laboratory rate of 1 space per 200 square feet, resulting in 31.07 spaces required.
 - The 158 square feet of printing areas were calculated at the Printing/Copying rate of 1 space per 400 square feet, resulting in 0.40 spaces required
 - The 3,444 square feet for the high bay and large freezer were calculated at the warehouse rate of 1 space per 500 square feet, resulting in 6.89 spaces required.
 - The total number of spaces based on these calculations is 57.04, rounded down to 57 spaces.
 - Translating this into spaces per gross square feet of the 32,900 square foot building, the parking based on the application of the standards in Title 20 would require 1 space per 577 square feet of gross floor area.
- c) Parking Study. A comprehensive study was prepared by Raju Associates, Inc. (LIB210103) which evaluated parking demand for the entire MBARI campus in order to right-size the parking requirement to the proposed uses. The findings of this study are summarized below:
- 190 Spaces were available during the time of the study. (An addition 29 spaces exist onsite, but are currently being used to store equipment and shipping containers)
 - Of these, observed peak demand was 163 spaces. Conservatively estimating parking demand by adding an additional factor of 10%, peak required parking for the existing MBARI Existing Facilities (Building's A-F) was calculated to be 179 spaces.
 - As existing Building's A-F are approximately 125,316 square feet, this would create a parking supply ratio of 1.43 parking spaces per 1,000 square feet .
 - Applying the supply ratio calculated based on existing peak demand for the Building G project (a new 32,900 square foot building) translates to 47 spaces, or 1 space per 699 square feet of gross floor area. The project would also provide 8 spaces.
 - Applying the same ratio to the 5,200 square foot building J.1, it would require another 7.4, rounded down to 7 spaces. The project would also provide 32 spaces.
- d) Total available parking and required parking are detailed below, based on a phasing of removal of existing storage containers, completing Building J.1 (ESB, currently under construction), and constructing building G. Required parking for Building G is shown with both the

requirements of the zoning regulations, and as proposed with the parking study prepared for the MBARI campus.

	<i>Available Parking</i>	<i>Required</i>
Existing A-E	190	179
With Removal of Containers	219	179
Building J.1	251	186
Building G (Zoning)	259	243
Building G (Raju/Proposed)	259	233*

**This number is 3 spaces higher than the figure in the study, to account for the ~3,000 square feet increase in Building G from the approximate 30,000 in the study.*

When calculated as a single structure, Building G's parking demand greatly exceeds available onsite parking (47 or 57 required to 8 provided). However, if calculated using a campus approach, the available parking at final buildout of both Building J.1 and Building G would exceed the required parking by between 16 and 26 spaces. In this case, both the 10 space reduction in the number of spaces and the modification to standards to allow spaces to be provided off-site are supportable. The MBARI campus operates out of several properties on the island, all of which are within walking distance, and the overall campus can accommodate all employee and visitor parking demand. As the structure and use are being proposed for removal, the existing parking requirements for the existing Building G (which contains a restaurant and area of lab space) are not factored into these calculations.

- e) Two conditions have been applied in accordance with the Monterey County Coastal Implementation Plan Standard 20.144.160.B.1.d.2.e, which requires that discretionary approvals contain requirements for parking, to incorporate the campus based parking approach. condition No. 18 requires that all of the storage containers and equipment within current parking spaces be removed prior to occupancy of building G. This is to both ensures that the parking will meet the minimum number of required spaces (without the removal the available parking would be 230, while overall campus demand would be 233), and to bring the parking areas into conformance with the Regulations for Parking Section 20.58.030, which requires that all parking facilities be used exclusively for the temporary parking of cars and light trucks, and not for permanent storage of vehicles or equipment. Additionally, condition No. 19 has also been, which will require the property owner to record a cross access parking agreement on all campus properties, to ensure that off-street parking will be available for the property even if it comes under separate ownership.
- f) This finding is specific to off-street parking required by the zoning ordinance. An additional 23-25 public parking spaces are being provided as part of the H.1 project, and 5 existing public parking spaces are being preserved as part of the J.1 (ESB/Expedition Staging Building) project. See Finding No. 8 for discussion of parking on the Island in relation to Public Access policies.

- g) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning found in Project File PLN210093.

6. FINDING: ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHA) –
The subject project minimizes impact on environmentally sensitive habitat areas in accordance with the applicable goals and policies of the North County Land Use Plan and accompanying implementing regulations.

- EVIDENCE:**
- a) In accordance with the policies of the North County Land Use Plan (LUP) and applicable regulations in the Monterey County Coastal Implementation Plan (CIP) and Zoning Ordinance (Title 20), the project includes a Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat Area (ESHA), i.e., dune habitat, and criteria to grant said permit has been met.
 - b) A biological assessment was prepared for the project in accordance with LUP Policy 2.3.2.5 and CIP Section 20.144.040.A.1.a, which identifies the boundaries of the sensitive habitat area and includes recommendations to reduce impacts to sensitive habitat and species. These recommendations were incorporated as Mitigation Measures No. 1, 2, and 3 discussed in Finding No. 7 evidence h).
 - c) LUP Policy 2.3.2.1 prohibits all development in environmentally sensitive habitats, including dunes, unless such development is a resource dependent use. Marine research facilities are coastally dependent, but not specifically dependent on dune habitat area. Therefore, in accordance with the land use plan policy, all proposed development has been sited outside of the habitat area, and the habitat is proposed to be restored. Pursuant to LUP Policy 2.3.2.6 and CIP Section 20.144.040.6, a condition of approval has been applied requiring that this habitat be placed in a Conservation and Scenic Easement.
 - d) LUP Policies 2.3.2.2 & 2.3.2.3 further enumerate that new land uses and development adjacent to locations of environmentally sensitive habitat area be compatible with the long-term maintenance of that resources. In line with this, the proposed development incorporates planning and design features needed to prevent habitat impacts. The proposed structures and hardscape are located entirely outside of the habitat area, no direct pedestrian access is available from the building to the habitat, and all onsite stormwater drainage is designed to be captured in treatment areas on the opposite east side of the property, draining to Sandholdt road in case of a system failure.
 - e) As required by LUP Policy 2.3.2.8, the removal of indigenous vegetation and land disturbance adjacent to sensitive habitat area shall be restricted to the minimum amount necessary for structural improvements. Development has been restricted to be outside of the sensitive habitat, which shall be protected throughout construction operations by exclusionary fencing established under the direction of a qualified biologist as detailed in Mitigation Measure No. 2.
 - f) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning found in Project File PLN210093.

7. **FINDING:** **CEQA (Mitigated Negative Declaration)** – On the basis of the whole record before the Monterey County Planning Commission, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:**
- a) Pursuant to Public Resources Code Section 21083, and California Environmental Quality Act (CEQA) Guidelines Sections 15063(a) and 15063(b)(2), the Lead Agency shall conduct environmental review in the form of an Initial Study to determine if the project may have a significant effect on the environment and shall prepare a Negative Declaration if there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment.
 - b) County of Monterey as Lead Agency, through HCD-Planning, prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of HCD-Planning and is hereby incorporated by reference (Planning File No. PLN210093).
 - c) There is no substantial evidence, based upon the record as a whole, that the project may have a significant effect on the environment. The Initial Study identified several potentially significant effects, but the applicant has agreed to mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. Based upon the analysis of the Initial Study, HCD-Planning prepared a Mitigated Negative Declaration. Mitigation measures have been made conditions of approval of this project.
 - d) The Draft Initial Study and Mitigated Negative Declaration for HCD-Planning File No. PLN210093 was prepared in accordance with the CEQA Guidelines; filed with the County Clerk on February 11, 2022; and circulated for public review from February 11, 2022 through March 14, 2022 (State Clearinghouse Number 2022020267).
 - e) Resource areas that were analyzed in the Draft Initial Study/Mitigated Negative Declaration included: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology/Soils, Greenhouse Gas Emissions, Hazards/Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, Noise, and Tribal Cultural Resources.
 - f) Evidence that has been received and considered includes: the application, technical studies/reports, staff reports that reflect the County's independent judgment, and information and testimony presented during public meetings and hearings. These documents are on file in HCD-Planning (Planning File No. PLN210093) and are hereby incorporated herein by reference.
 - g) The County identified less than significant impacts to Aesthetics, Air Quality, Cultural Resources, Energy, Geology/Soils, Greenhouse Gas Emissions, Noise, and Tribal Cultural Resources. Mitigation measures will not be required for these resource areas.
 - h) The County identified potentially significant impacts to Biological Resources, Hazards/Hazardous Materials, Hydrology/Water Quality, and Land Use/Planning. Mitigation measures have been proposed to reduce the identified impacts to a level of less than significant.

Mitigation Measure Nos. 1, 2, 3, and 4 would reduce the potentially significant impacts by:

- Requiring a pre-construction nesting bird survey if construction is scheduled to begin in the bird nesting season to ensure commencement of construction activities will not harm Western Snowy Plovers or other nesting birds (biological resources);
- Requiring that the existing dune habitat area be protected through construction with exclusionary fencing (biological resources & land use/planning);
- Requiring onsite dune habitat be restored in accordance with a restoration plan prepared by a qualified biologist prior to occupancy (biological resources & land use/planning); and
- Raising the structures finish floor level at least one foot above the 10.64 foot project sea level at 2060 to prevent inundation from climate change hazards including sea level rise (hazards/hazardous materials & hydrology/water quality).

These mitigations have been incorporated into the project as conditions of approval.

- i) Pursuant to Public Resources Code Section 21083.2 et seq., County of Monterey HCD-Planning staff initiated AB52 consultation with local Native American tribes on October 5, 2021. No requests for consultation were received by local tribal authorities.
- j) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations, is designed to ensure compliance during project implementation, and is hereby incorporated herein by reference. The applicant must enter into an “Agreement to Implement a Mitigation Monitoring and/or Reporting Plan” as a condition of project approval.
- k) Analysis contained in the Initial Study and the record as a whole indicate the project would have the potential to result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Wildlife (CDFW) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless CDFW determines that the project will have no effect on fish and wildlife resources.

In this case, for purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The Initial Study was sent to CDFW for review, comment, and to recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination.

- l) Public Comment. During the public review period from July 22 through September August 23, 2021, the County received comments from

California Coastal Commission Staff and County of Monterey Environmental Health Bureau Staff. The County considered the comments received and concluded they do not conflict with, alter or challenge the analysis and conclusions of the draft Initial Study or MND. Therefore, no revision and/or recirculation of the draft Initial Study is required to address comments. The comments received from each agency are individually addressed in the subsequent evidences m) and n).

- m) California Coastal Commission. The comments received from California Coastal Commission staff addressed Land Use Plan and Coastal Act consistency generally. The Coastal Commission Staff's comment letter was attached to staff's report to the Planning Commission for the April 13, 2022 County of Monterey Planning Commission Meeting as Exhibit "I". The comments are summarized and addressed below.

Jurisdiction and Permitting: The letter indicates that the MND should identify that the building is located in an area where Monterey County has primary permitting authority and the Coastal Commission has appellate review authority. The Initial Study identifies that the project is appealable to the Coastal Commission on Pg. 8, under Subsection C "Other Agencies whose approval is required".

Project Description: The letter includes a draft project description. This project description is generally correct; however, the 16,740 square feet refers to the footprint of the existing building, which has a floor area of 20,609 square feet. This is being clarified in the Initial Study, see subsequent evidence o).

Public Access: The comments indicate that maximization of public access and recreational opportunities should be considered key project objectives, and recommend that the project proposal include accessway enhancements in order to maintain consistency with the Coastal Act and Moss Landing Community Plan Policies 5.4.3.6 and 5.4.3.11, and address the impact of lost access use from changing from a visitor serving commercial use to a more private research use. Condition of Approval No. 20 has been incorporated requiring that the applicant submit an Access Management Plan including signage and maintenance requirements for HCD-Planning review and approval prior to the issuance of construction permits, in accordance with Monterey County Coastal Implementation Plan Standard 20.144.B.1.a. Also see Finding No. 8.

Climate change/Sea Level Rise: Coastal Commission staff identified that while no coastal armoring is indicated as required for the life of the structure based on the analyses provided, there is no statement specifying armoring will not be allowed in the future armoring, and proposed incorporating a condition similar to Special Condition No. 6 of the Expedition Stage Building (A-3-MCO-17-0068), which prohibits any future armoring of the property, and established retreat/re-location

procedures in the event that coastal hazards (such as sea level rise) should ever threaten the development. This has been addressed through the incorporation of Condition No. 17, which requires that the applicant record a deed restriction prohibiting any future armoring of the property, with the same retreat/re-location procedures. Also see also Finding No. 3 evidence f).

Public Views: The letter indicates that the design of the building and preservation of public views from Highway One should be considered important project components, and references Coastal Act Section 30251 and the respective Visual Resources policies in the North County Land Use Plan. Consistency with the Visual Resources Policies of the North County Land Use Plan is in Finding No. 1 evidence g), and in the Aesthetics Section of the Initial Study starting on Pg. 19.

- n) Environmental Health Bureau. The Environmental Health Bureau Drinking Water Protection Services – Water Systems team commented indicating that a cross control connection survey and removal of any cross connections would be warranted based on the size of the commercial building and its use. County staff have incorporated a condition requiring a cross connection control survey and removal of any identified cross connections as Condition No. 24.
- o) Clarification and Amplification: Existing Building Size. The Initial Study describes the existing building to be 16,740 square feet, as shown on the demolition plan sheet C-400. However, this is the area of the building footprint. The draft General Development Plan narrative (PLN080006) indicates that the floor area of the existing structure is 20,609 square feet. As the proposed structure is described in terms of floor area (32,900 square feet) instead of footprint, the project description on Pg. 2 should be clarified and amplified to include both the building footprint and floor area of the existing structure, to ensure a complete and accurate record:

“The existing structure to be demolished is has a 16,740 square foot footprint with a 20,609 square foot floor area. ~~structure, which and~~ is currently being used as a restaurant, Phil’s Fish Market.”

- p) Pursuant to CEQA Guidelines Section 15073(e), the County provided notice of the public hearing to those public agencies that submitted comments on the Initial Study and Mitigated Negative Declaration.
- q) The County of Monterey Planning Commission considered the Mitigated Negative Declaration, along with the Combined Development Permit, at a duly noticed public hearing held on April 13, 2022.
- r) County of Monterey HCD-Planning, located at 1441 Schilling Place, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the Mitigated Negative Declaration is based.

8. FINDING: PUBLIC ACCESS – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the

- Public Resources Code) and applicable Local Coastal Program, and does not interfere with any form of historic public use or trust rights.
- EVIDENCE:**
- a) Public access to the beach from Sandholdt road “lateral access” exists through a 10-foot-wide pedestrian easement abutting the subject site, “Whale Way”. The existing visitor serving restaurant use has several gates which facilitate open access and use of this by patrons. The removal of the visitor serving use, and re-development of the site without the physical inter-connectivity of the use and public access easement would be a minor impact to public access.
 - b) LUP Policy 5.4.3.11 indicates that public access to the beach shall be a condition of development permits on the Island. Condition of approval No. 20 has been applied which requires the preparation and submittal of an Access Management Plan in for the existing Whale Way, in accordance with CIP Section No. 20.144.150.A.1. The access management plan shall include enhanced public signage and include on-going maintenance measures to be performed by the property owner. The requirement for an access management plan shall fully address the minor impact to public access identified in preceding evidence a).
 - d) In accordance with CIP Section 20.144.150.E.2.c.6, the Dune Restoration Plan prepared as a part of Mitigation Measure No. 3 shall include protective symbolic fencing and low-profile signage informing the public of the protected habitat.
 - e) LUP Policy 5.4.3.11 indicates that adequate onsite parking shall be a condition of development permits on the Island. See Finding No. 5 for analysis of using the campus based parking approach for the Monterey Bay Aquarium Research Institute’s operations. In addition, the cross-property parking agreement required as condition of approval no. 19 shall enumerate that the parking spaces at the end of Moss Landing Island (23-25 at H.1 site and 5 at J.1/ESB site) shall not be used for employee parking.
 - f) The subject property is described as “Priority 2” for Public Access and Recreation (Moss Landing Community Plan Figure 4).
 - d) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning found in Project File PLN210093.

9. **FINDING:** **APPEALABILITY** – The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.

- EVIDENCE:**
- a) Pursuant to Title 20 Section 20.86.030.A. An appeal may be made to the Board of Supervisors by any public agency or person aggrieved by this decision.
 - b) The project is appealable to the California Coastal Commission because it involves development that is listed as conditionally allowed in the LI zoning district (20.86080.A.3), because the project is between the sea and the first public right of way road paralleling the sea (20.86080.A.1.), and because the project is within 300 feet of the inland extend of a beach (20.86080.A.1.).

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

1. Adopt a Mitigated Negative Declaration pursuant to Section 15074 of the CEQA Guidelines;
2. Approve the Combined Development Permit consisting of:
 - a) a Coastal Development Permit to allow the demolition of an existing 20,609 square foot restaurant and marine research facility building and the construction of a two-story 32,900 square foot marine research facility building;
 - b) a Coastal Development Permit for development within 100 feet of environmentally sensitive habitat, (coastal dune); and
 - c) a Coastal Development Permit for a modification in parking standards, by allowing a 10 space reduction in the total required parking for Building G and allowing parking to be considered across the entire MBARI Campus; and
3. Adopt a Condition Compliance and Mitigation Monitoring and Reporting Plan. All of which are in general conformance with the attached project plans (Attachment 2), color accent study (Attachment 3), and subject to the attached conditions (Attachment 1), all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 13th day of April, 2022, upon motion of Commissioner Coffelt, seconded by Commissioner Mendoza, by the following vote:

AYES: Getzelman, Diehl, Roberts, Gonzalez, Mendoza, Monsalve, Coffelt, Daniels, Ambriz, Work
NOES: None
ABSENT: None
ABSTAIN: None

DocuSigned by:

Craig Spencer

186D567A436B450

Craig Spencer, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO THE APPLICANT ON 4/14/22.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE 4/25/22.

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County HCD-Planning and HCD-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 1-27-2021

Monterey County RMA Planning

Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN210093

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

This Combined Development Permit permit (PLN210093) allows demolition of an approximately 20,000 square foot restaurant marine research building and construction of a new two-story approximately 33,000 square foot marine research facility building, a reduction in parking standards, and development in proximity to environmentally sensitive habitat (Coastal Dune). The property is located at 7600 Sandholdt Road, Moss Landing (Assessor's Parcel Number 133-232-001-000), North County Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (HCD - Planning)

**Compliance or
Monitoring
Action to be
Performed:**

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Combined Development Permit (Resolution Number 22-008) was approved by Planning Commission for Assessor's Parcel Number 133-232-001-000 on April 13, 2022. The permit was granted subject to 32 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

Proof of recordation of this notice shall be furnished to the Director of RMA - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County RMA - Planning and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.
(RMA - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to this condition on an on-going basis.
Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County RMA - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. PD005 - FISH & GAME FEE NEG DEC/EIR

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Pursuant to the State Public Resources Code Section 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Within five (5) working days of project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning.

If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning prior to the recordation of the final/parcel map, the start of use, or the issuance of building permits or grading permits.

5. PD006 - CONDITION OF APPROVAL / MITIGATION MONITORING PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring and/or Reporting Plan (Agreement) in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed Agreement. The agreement shall be recorded. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Within sixty (60) days after project approval or prior to the issuance of building and grading permits, whichever occurs first, the Owner/Applicant shall:

- 1) Enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring Plan.
- 2) Fees shall be submitted at the time the property owner submits the signed Agreement.
- 3) Proof of recordation of the Agreement shall be submitted to RMA-Planning.

6. PD012(H) - LANDSCAPING PLAN (NO. COUNTY NATIVE)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The site shall be landscaped. The use of native species consistent with and found in the project area shall be required in all landscaping plans as a condition of project approval. A list of appropriate native plant species identified in Attachment #2 and #3 in the North County Implementation Plan Development Regulations is available in brochure form (Suggested Native Species Landscaping List - North County Coastal Zone) from RMA - Planning. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit landscape plans and contractor's estimate to the RMA - Planning for review and approval. Landscaping plans shall include the recommendations from the Forest Management Plan or Biological Survey as applicable. All landscape plans shall be signed and stamped by licensed professional under the following statement, "I certify that this landscaping and irrigation plan complies with all Monterey County landscaping requirements including use of native, drought-tolerant, non-invasive species; limited turf; and low-flow, water conserving irrigation fixtures."

7. PD014(A) - LIGHTING - EXTERIOR LIGHTING PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting source shall be shielded and recessed into the fixture. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of RMA - Planning, prior to the issuance of building permits.
(RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to RMA - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to final/occupancy, the Owner/Applicant/Contractor shall submit written and photographic evidence demonstrating that the lighting has been installed according to the approved plan.

On an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.

8. PD016 - NOTICE OF REPORT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states:
"A Geotechnical Report (Library No. LIB210101), was prepared by Gyimah Kasali, Ph.D., G.E. (Rutherford + Chekene) on June 30, 2021 and is on file in Monterey County HCD - Planning. All development shall be in accordance with this report."
(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, the Owner/Applicant shall submit proof of recordation of this notice to HCD - Planning.

Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the HCD - Planning.

9. PD022(C) - EASEMENT-CONSERVATION AND SCENIC (COASTAL)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: A conservation and scenic easement shall be conveyed to the County over those portions of the property where environmentally sensitive habitat area (coastal dune) exist(s) in accordance with the procedures in Monterey County Code § 20.64.280.A. A Subordination Agreement shall be required, where necessary. The easement shall be developed in consultation with certified professional. An easement deed shall be submitted to, reviewed and approved by the Director of RMA - Planning and the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to recording the parcel/final map or prior to issuance of grading and building permits. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to recording the parcel/final map or prior to issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to RMA - Planning for review and approval.

Prior to recording the parcel/final map or prior to issuance of grading and building permits, the Owner/Applicant shall submit a signed and notarized Subordination Agreement, if required, to RMA - Planning for review and approval.

Prior to or concurrent with recording the parcel/final map or prior to issuance of grading and building permits, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to RMA - Planning.

10. PD041 - HEIGHT VERIFICATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible on-site until final building inspection. The applicant shall provide evidence from a licensed civil engineer or surveyor to the Director of RMA - Building Services for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit associated with this project. (RMA - Planning and RMA - Building Services)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading or building permits, the Owner/Applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection.

Prior to the foundation pre-pour inspection, the Owner/Applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of RMA- Building Services for review and approval, that the height of first finished floor from the benchmark is consistent with what was approved on the building permit.

Prior to the final inspection, the Owner/Applicant/Engineer shall provide evidence from a licensed civil engineer or surveyor, to the Director of RMA- Building Services for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit.

11. PD047 - DEMOLITION/DECONSTRUCTION (MBUAPCD RULE 439)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In accordance with Monterey Bay Unified Air Pollution Control District Rule 439, construction plans shall include "Demolition and Deconstruction" notes that incorporate the following work practice standards:

1. Sufficiently wet the structure prior to deconstruction or demolition. Continue wetting as necessary during active deconstruction or demolition and the debris reduction process;
2. Demolish the structure inward toward the building pad. Lay down roof and walls so that they fall inward and not away from the building;
3. Commencement of deconstruction or demolition activities shall be prohibited when the peak wind speed exceeds 15 miles per hour.

All Air District standards shall be enforced by the Air District.

(RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of a demolition permit, if applicable, the Owner/Applicant/Contractor shall incorporate a "Demolition/Deconstruction" note on the demolition site plan that includes, but is not limited to, the standards set forth in this condition.

During demolition, the Owner/Applicant/Contractor shall obtain any required Air District permits and the Air District shall conduct all deconstruction or demolition inspection activities as required by the Air District.

12. PD052 - PRE-CONSTRUCTION MEETING

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to the commencement of any grading or construction activities, a pre-construction meeting shall be held on the site. The meeting shall include representatives of each of the selected contractors, any consultant who will conduct required monitoring, the Owner/Applicant, the RMA-Planning Department and any other appropriate County Departments. The purpose of the meeting is to review the conditions of approval that are applicable to the grading and construction of the approved development. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to commencement of any grading or construction activities, the Owner/Applicant shall contact RMA-Planning to schedule a pre-construction meeting prior to commencement of any grading or construction activities. The Owner/Applicant shall be responsible for ensuring that all appropriate contractors and technical consultants are in attendance. RMA-Planning staff shall be responsible for identifying and notifying other County Departments that should attend the meeting (if applicable).

13. PDSP001 - PRE-CONSTRUCTION BIRD SURVEY (Mitigation Measure No. 1)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure (MM) No. 1: In order to prevent construction activities from inadvertently harming the Western snowy plover and other nesting birds, a qualified biologist shall be required to prepare a pre-construction bird nesting survey if initial site preparation, demolition, or construction activities are scheduled to begin within the nesting season. The survey shall be prepared by a qualified biologist from Monterey County's approved list of biological consultants and shall be prepared no greater than two weeks from the commencement of construction, initial demolition or site disturbance activities. If Western snowy plover activity is observed within 300 feet of the construction site, construction shall be postponed until the biologist confirms that the young have fledged and commencement of construction activity will not harm any plovers, and if other protected nesting bird activity is observed within 300 feet of the construction site, construction shall be postponed until the biologist confirms that construction will not harm the other nesting birds.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action (MMA) No. 1.1: Prior to the issuance of construction permits, the owner/applicant shall submit an updated construction schedule to HCD-Planning indicating if construction activity is scheduled to begin within the bird nesting season, between February 1 and September 30. If initial site preparation, demolition, or construction is scheduled to begin during these times, a pre-construction survey shall be required.

Mitigation Monitoring Action (MMA) No. 1.2: Within two weeks of commencement of initial construction, demolition, or site disturbance activities, whichever comes first, the owner/applicant shall submit the results of a bird nesting survey required by MMA 1.1 prepared by a biologist on Monterey County's list of approved biological consultants to HCD-Planning. If the biologist's survey identifies Western snowy plover activity within 300 feet of the construction site, construction shall be postponed until monitoring by the biologist confirms that the young have fledged and commencement of construction activity will not harm any plovers. If other protected nesting bird activity is observed within 300 feet of the construction site, construction shall be postponed until the biologist confirms commencement of construction will not harm any protected nesting birds. Confirmation for either case shall be in the form of a follow up report prepared by a qualified biologist on Monterey County's list of approved biological consultants and submitted to HCD-Planning for review and approval prior to commencement of initial site preparation, demolition, or construction.

14. PDSP002 - PROTECTIVE FENCING (Mitigation Measure No. 2)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure (MM) No. 2: Throughout project construction, the existing sensitive dune habitat shall not be disturbed by construction operations, including: trampling by construction crews, runoff, inappropriate staging of materials, and operation of equipment. To prevent such activities from inadvertently disturbing dune habitat adjacent to the construction zone, a qualified biologist shall designate appropriate protection zones on the site, which shall be protected by temporary exclusionary fencing. The fencing shall be established by the owner/applicant under direction of a qualified biologist from Monterey County's list of approved biological consultants, and maintained between initial site preparation activities and when the qualified biologist determines it is safe to remove the fence without harming the habitat area.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action (MMA) No. 2.1: Prior to the issuance of construction permits, a qualified biologist from Monterey County's list of approved biological consultants shall designate areas of exclusionary construction fencing for the protection of dune habitat, and submit a fencing plan depicting these areas to HCD-Planning for review and approval. The plan shall at a minimum include a site plan indicating where the fencing shall be located and where the particular sensitive habitats are, specific time periods the fencing must be in place, and procedures for if the fence must be temporarily adjusted or relocated for specific project activities.

Mitigation Monitoring Action (MMA) No. 2.2: Prior to the issuance of construction permits, the owner/applicant shall establish the exclusionary fencing in accordance with the fencing plan described in MMA No. 2.1, under the direction of a qualified biological monitor from Monterey County's approved list of biological consultants. The owner/applicant shall provide evidence to HCD-Planning that the exclusionary fencing has been established in appropriate locations. Evidence shall be in the form of photo documentation and a letter from the project biologist verifying the fencing was established in accordance with the plan.

Mitigation Monitoring Action (MMA) No. 2.3: Prior to the commencement of site preparation, grading, or demolition activities, whichever comes first, the owner/applicant shall hold a pre-construction meeting with the applicant, the qualified biologist, representatives of the contractor, and HCD-Planning staff. The purpose of the pre-construction meeting shall be to educate the construction team on the exclusion zones, and to review the project mitigation measures and conditions. After the pre-construction meeting, the applicant and contractor shall be responsible for ensuring that any additional construction personnel are educated about the exclusion zones.

Mitigation Monitoring Action (MMA) No. 2.4: The owner/applicant shall be responsible for maintaining the fencing as prescribed in the fencing plan described in MMA 2.1. When the project reaches the stage in which it is appropriate for removal, as defined by the qualified biologist in the fencing plan, the owner/applicant shall remove the fencing under the direction of the qualified biologist. After fencing removal and prior to construction permit final inspection, the qualified biologist shall perform a site inspection and prepare a report on whether the implementation of the fencing plan was successful, or if additional remediation efforts are required, and submit this report to HCD-Planning. If remediation efforts are required, the qualified biologist shall incorporate them into the restoration plan required in Mitigation Measure No. 3, and the owner/applicant shall be responsible for executing them prior to building final inspection.

15. PDSP003 - DUNE RESTORATION PLAN (Mitigation Measure No. 3)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure (MM) No. 3: To address any inadvertent impact to the sensitive Dune habitat resulting from construction activities, and to ensure that the proposed dune restoration efforts of the project are executed in a manner which will not inadvertently harm the habitat area, a dune habitat restoration plan shall be prepared prior to final building inspection, and the approximately 0.18 acres of degraded dune habitat area onsite shall be restored in accordance with the restoration plan prepared by a qualified biologist from Monterey County's list of approved biological consultants prior to final building inspection. The restored dune habitat shall be similar to other foredunes in the Moss landing area, and the plan shall include protective symbolic fencing, low-profile signage informing the public of the protected habitat, and monitoring measures and performance criteria to ensure a successful restoration.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action (MMA) No.3.1: Prior to the issuance of construction permits, the owner/applicant shall submit a contract with a qualified biologist from Monterey County's list of approved biological consultants for the preparation of a restoration plan for the restoration of the approximately 0.18 acres of sensitive dune habitat.

Mitigation Monitoring Action (MMA) No. 3.2: Prior to final of construction permits, the owner/applicant shall submit a dune habitat restoration plan prepared by the qualified biologist to HCD-Planning for review and approval. The plan shall include restoration and planting recommendations, protective symbolic fencing, low-profile signage information the public of the protected habitat, monitoring time periods for the restoration, and performance criteria for successful restoration.

Mitigation Monitoring Action (MMA) No. 3.3: Prior to final of construction permits, the owner/applicant shall undertake initial planting and restoration of the approximately 0.18 acre area of sensitive dune habitat, in accordance with the recommendation of the prepared restoration plan. The applicant shall provide evidence to HCD-Planning that the restoration recommendations have been executed. Evidence shall be in the form of photo documentation and a letter from a qualified biologist indicating that the initial planting and restoration have been appropriately performed.

Mitigation Monitoring Action (MMA) No. 3.4: Prior to final of construction permits, the owner/applicant shall submit a contract to HCD-Planning with a qualified biologist from Monterey County's list of approved consultants for the biological monitoring recommended in the restoration plan.

Mitigation Monitoring Action (MMA) No. 3.5: After final of construction permits, the qualified biologist shall submit annual progress reports on the success of the restoration to HCD-Planning for the duration of the monitoring period defined in the restoration plan. If the restoration does not meet the established performance criteria in the restoration plan at the end of each year, the owner/applicant shall be responsible for undertaking additional restoration activity as recommended by a qualified biologist, until the performance criteria are be met. The owner/applicant shall provide evidence that they performed the additional restoration activity recommended by the biologist to HCD-Planning, in the form of a follow up report by the qualified biologist.

16. PDSP004 - FINISH FLOOR ELEVATION (Mitigation Measure No. 4)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure (MM) No. 4: To prevent inundation from climate change hazards (i.e. sea-level rise), which would have the potential to flood the building and risk releasing hazardous contaminants into the ocean, the owner/applicant shall construct the building's finish floor level at least one foot above the 10.64 foot projected sea level at 2060 as identified in the geology report HCD-Planning Library File LIB210102.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action (MMA) No. 4.1: Prior to the issuance of construction permits, the owner/applicant shall note the height of the building finish floor on the building permit drawings, and submit these drawings to HCD-Planning for review and approval.

Mitigation Monitoring Action (MMA) No. 4.2: Prior to the issuance of construction permits, the owner/applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans, and submit these to HCD-Planning for review and approval. The owner/applicant shall ensure the benchmark shall remain visible onsite until final building inspection.

Mitigation Monitoring Action (MMA) No. 4.3: Prior to building final inspection, the owner/applicant shall provide evidence from a licensed civil engineer or surveyor, to HCD-Planning for review and approval, that the height of the finish floor from the benchmark is consistent with what was approved on the building permit associated with this project.

17. PDSP005 - COASATL HAZARDS DEED RESTRICTION (Non-Standard) Part 1

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In accordance with North County Land Use Plan Hazards Policy 2.8.2.6, the owner shall record a deed restriction on the property describing the nature of the properties hazards (Coastal Hazards, including but not limited to waves, storms, flooding, landslide, shoreline retreat, erosion, and earth movement, many of which will worsen with future sea level rise) and long-term maintenance requirements. The deed restriction shall say the following:

"a. General Provisions. This deed restriction is being recorded to satisfy condition no. PDSP002 of the Combined Development Permit Approval (PLN210093), approved by County of Monterey Planning Commission Resolution No. 22-XX. By accepting this permit, the property owner has accepted the following conditions and restrictions, which shall run with the land:

b. Coastal Hazards. That the site is subject to coastal hazards, including but not limited to waves, storms, flooding, landslide, shoreline retreat, erosion, and earth movement, many of which will worsen with future sea level rise.

c. Assume Risks. To assume all risks to the Permittee and the properties that are the subject of this permit of injury and damage from such hazards in connection with this permitted development.

d. Liability Waiver. To unconditionally waive any claim of damage or liability against the California Coastal Commission & the County of Monterey, and their officers, agents, and employees for injury or damage from such hazards.

e. Indemnification. To indemnify and hold harmless the California Coastal Commission & the County of Monterey, and their officers, agents, and employees with respect to the County'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. This indemnification obligation is in addition to, and cumulative of, the indemnification obligation imposed by the County of Monterey Planning Commission in its Resolution No. 22-XX, Condition No. XX. Property owner understands and agrees that both indemnification obligations shall be memorialized in the indemnification agreement required by Planning Commission Resolution No. 22-XX, Condition No. 21.

f. Permittee Responsible. That any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittee.

g. Shoreline Armoring Prohibited. That no shoreline armoring shall ever be constructed to protect the development approved pursuant to this CDP, including in the event that the development is threatened with damage or destruction from coastal hazards in the future.

h. Waiver of Rights to Construct Armoring. The Permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such armoring that may exist under applicable law.

TEXT CONTINUED IN PART 2

Compliance or
Monitoring
Action to be
Performed: SEE PART 2 FOR ACTIONS NEEDED FOR RESOLUTION

17. PDSP005 - COASATL HAZARDS DEED RESTRICTION (Non-Standard) Part 2

Responsible Department: RMA-Planning

Condition/Mitigation
Monitoring Measure: CONTINUED FROM PART 1:

i. Development Relocation/Removal. The approved project may be constructed and used consistent with the terms and conditions of this permit for only as long as development on the property remains (1) safe for use and occupancy, and (2) located on private property. If any portion of the development is deemed unsafe by an appropriate public agency, or in the event that the mean high tide line migrates to within 25 feet of the seaward edge of the retaining wall on the west of the the structure (Building "G") (whether or not an appropriate public agency has deemed any use and/or development unsafe), the Permittee shall submit a geotechnical investigation prepared by a licensed coastal engineer and geologist that addresses whether any portions of the approved development are threatened by coastal hazards. The investigation shall be submitted to the Director of County of Monterey HCD, and it shall identify all those immediate or potential future measures that could stabilize the threat of coastal hazards without shoreline armoring including, but not limited to, removal or relocation of portions of the approved project. If the geotechnical investigation concludes that any portion of the approved project is unsafe for its intended use without shoreline armoring, the Permittee shall, within 90 days of submitting the investigation, submit two copies of a Removal/Relocation Plan to the Director of County of Monterey HCD for review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/relocated and the affected area restored so as to best protect coastal resources, including adjacent sandy beach, dunes and the Pacific Ocean. In the event that portions of the development are destroyed by coastal hazards before they are removed/relocated, the Permittee shall remove all recoverable debris associated with the development from the beach, dunes, and ocean; shall lawfully dispose of the material in an approved disposal site; and shall restore the affected area so as to best protect coastal resources, including adjacent sandy beach, dunes and the Pacific Ocean."

Compliance or
Monitoring
Action to be
Performed: Prior to issuance of construction permits, owner/applicant shall record the deed restriction, and provide HCD-Planning with evidence that it has been recorded. Such evidence shall be in the form of a copy of the recorded document with the recorders seal.

18. PDSP006 - REMOVAL OF STORAGE CONTAINERS

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to final inspection of construction permits or occupancy, the owner/applicant shall have the equipment, storage containers, and/or material which block the 29 parking spaces identified in the parking report LIB210103 removed so that those parking spaces may be used for temporary parking of passenger automobiles, motor vehicles, or light trucks pursuant to Monterey County Code Section 20.58.030.

Compliance or Monitoring Action to be Performed: Prior to final inspection of construction permits or occupancy, the owner/applicant shall provide evidence that the storage containers, equipment, and/or materials have been removed to HCD-Planning for review and approval.

19. PDSP007 - PARKING AGREEMENT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The property owners of the Monterey Bay Aquarium Research Institute (MBARI) campus (Assessor's Parcel Numbers 133-252-001-000, 133-242-001-000, 133-242-008-000, 133-232-001-000, and 133-231-001-000) shall enter into a cross-access parking agreement, which shall be recorded on the properties and run with the land. The agreement shall allow property owners to utilize off-street parking of the different properties on a campus wide basis, including provisions for access, and shall prohibit the use of the public parking spaces at the MBARI J.1 and H.1 sites for use as employee parking.

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permits, the owner/applicant shall submit the parking agreement to HCD-Planning for review and approval.

Prior to final of construction permits, the owner/applicant shall record the agreement and provide evidence that it was recorded. Such evidence shall be in the form of a copy of the agreement with the recorders seal.

20. PDSP008 - ACCESS MANAGEMENT PLAN (Non-Standard)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall prepare an Access Management Plan for the 10' wide pedestrian access easement on the south of the property "Whale Way" in accordance with the Monterey County Coastal Implementation Plan Section 20.144.150.A. The Access Management Plan shall include enhanced public signage and detail maintenance obligations of the property owner, and shall include the following components:

1. Description of accessway and map/diagram.
2. Document establishing the easement, such as easement deed, etc.
3. Public Signage, including identifying the access, directional access to parking at the north of the island,, and low-profile signage describing the sensitive nature of the dune habitat area.
4. Assumption of maintenance obligation for the accessway.

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permits, the owner/applicant shall submit the Access Management Plan to HCD-Planning for review and approval.

21. CC01 INDEMNIFICATION AGREEMENT

Responsible Department: County Counsel-Risk Management

Condition/Mitigation Monitoring Measure: The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (County Counsel-Risk Management)

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Office of County Counsel-Risk Management for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel-Risk Management

22. EHSP01 - HAZARDOUS MATERIALS BUSINESS PLAN (Non-Standard)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The facility is anticipated to store hazardous materials in excess of threshold quantities that require registration with the California Environmental Protection Agency's California Environmental Reporting System (CERS) and an up-to-date Hazardous Materials Business Plan that meets the standards found in the California Code of Regulations, Title 19, Division 2, Chapter 4 (Hazardous Material Release Reporting, Inventory, and Response Plans) and the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Material Release Response Plans and Inventory), and the Monterey County Code Chapter 10.65.

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permit, the owner/applicant shall submit a completed Business Plan – Memorandum of Understanding that specifies the facility will be registered with CERS and that a Hazardous Materials Business Plan must be on file prior to bringing hazardous materials on site and/or commencement of operations.

23. EHSP02 - HAZARDOUS WASTE CONTROL (Non-Standard)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The facility is anticipated to generate hazardous waste and shall comply with the standards found in the California Code of Regulations, Title 22, Division 4.5 and the California Health and Safety Code, Division 20, Chapter 6.5, and the Monterey County Code Chapter 10.65 for the proper handling, storage and disposal of Hazardous Waste as approved by the Environmental Health Bureau (EHB).

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permit, the applicant shall submit to the Hazardous Materials Management Services of the Environmental Health Bureau (EHB) an inventory of any hazardous waste expected to be generated on site for review and acceptance. If no hazardous waste is expected to be generated, applicant shall submit attestation to the satisfaction of EHB.

24. EHSP03 - ONSITE CROSS-CONNECTION CONTROL SURVEY (Non-Standard)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The proposed commercial operation will receive domestic water service from Pajaro Sunny Mesa Community Services District (PSMCSD) and PSMCSD will require appropriate backflow protection for water system. In order to prevent backflow of water utilized for onsite activities related to the research and laboratory facilities into the onsite domestic supply, a cross-connection control survey shall be completed by a qualified professional to identify potential cross-connections and recommend mitigations.

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permit, submit to the following information to the Environmental Health Bureau (EHB) for review and acceptance:

- a detailed site plan, specifying any and all equipment that will receive water from or be connected to the onsite domestic water supply; and
- a narrative description of the proposed research and laboratory facilities.
- a cross-connection control survey that has been completed by a qualified professional that identifies potential cross-connections and recommends mitigations.

Prior to occupancy, submit to the following information to the Environmental Health Bureau (EHB) for review and acceptance:

- a final cross-connection control survey that has been completed by a qualified professional that confirms that all cross-connections have been mitigated.

25. FEMA LETTER OF MAP REVISION BASED ON FILL

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall obtain a FEMA Letter of Map Revision Based on Fill (LOMR-F) officially removing a portion of the property from the FEMA-defined 100-year floodplain. (HCD - Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the applicant shall submit a LOMR-F application to FEMA and provide evidence to HCD-Environmental Services that the LOMR-F application has been submitted.

26. FIELD VERIFICATION OF POST-CONSTRUCTION STORMWATER CONTROL MEASURES (PR 2-4)

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall provide certification from a registered Professional Engineer that the stormwater control facilities have been constructed in accordance with the approved Stormwater Control Plan. (HCD – Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the owner/applicant shall submit a letter to HCD-Environmental Services for review and approval.

27. FLOODPLAIN NOTICE

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall provide a recorded floodplain notice for the subject parcel stating: "The property is located within or partially within a Special Flood Hazard Area and may be subject to building and/or land use restrictions." (HCD-Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the applicant shall submit a signed and notarized floodplain notice to HCD-Environmental Services for review and approval.

28. MAINTENANCE AGREEMENT (PR 2-4)

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall enter into a Maintenance Agreement (Agreement) that clearly identifies the responsible party for ongoing maintenance of structural Stormwater Control Measures. The Agreement shall contain provisions for an annual drainage system report, prepared by a registered Professional Engineer, that includes the status of all structural stormwater control measures and maintenance recommendations. The annual report shall be submitted to HCD-Environmental Services, for review and approval, no later than August 15th. All recommended maintenance shall be completed by October 15th of the same year. If maintenance is required, certification shall be provided that all recommended maintenance has been completed before the start of the rainy season. (HCD – Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the owner/applicant shall submit the signed and notarized Agreement to HCD-Environmental Services for review and approval. The approved Agreement shall be recorded, and a copy of the recorded document shall be provided to HCD-Environmental Services.

A copy of the standard Agreement can be obtained at HCD – Environmental Services.

29. OPERATION AND MAINTENANCE PLAN (PR 2-4)

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit an Operation and Maintenance Plan prepared by a registered Professional Engineer that includes, at a minimum, the following:

- A site map identifying all structural Stormwater Control Measures requiring O&M practices to function as designed.
- O&M procedures for each structural Stormwater Control Measure including, but not limited to, LID facilities, retention/detention basins, and proprietary devices.
- The O&M Plan shall include short- and long-term maintenance requirements, recommended frequency of maintenance, and estimated cost for maintenance (HCD – Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the owner/applicant shall submit the O&M Plan to HCD-Environmental Services for review and approval.

30. PW0001 – FRONTAGE IMPROVEMENTS

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: Construct curb, gutter, driveway connections, sidewalk, and paveout, together with required drainage facilities, along the frontage of Moss Landing Road. The design and construction is subject to the approval of the HCD-Engineering Services. Encroachment Permits are required for all work within the public right-of-way.

Compliance or Monitoring Action to be Performed: Owner/Applicant shall submit the design for review and approval of the RMA-PWF, obtain an encroachment permit from the RMA prior to issuance of building or grading permits, and construct and complete improvements prior to occupancy or commencement of use. Applicant is responsible to obtain all permits and environmental clearances.

31. PW0007 - PARKING STANDARD

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: The parking stalls and circulation shall meet County standards, and shall be subject to the approval of the RMA.

Compliance or Monitoring Action to be Performed: Prior to Building/Grading Permits Issuance, the Owner's/Applicant's engineer/architect shall prepare a parking plan and submit plans for review and approval.

32. STORMWATER CONTROL PLAN (PR2-4)

Responsible Department: Environmental Services

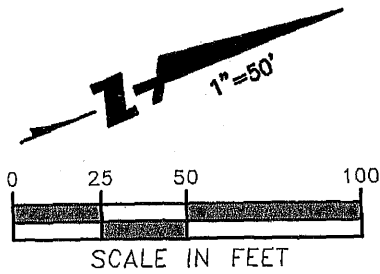
Condition/Mitigation Monitoring Measure: The applicant shall submit a Stormwater Control Report and a Stormwater Control Plan, prepared by a registered professional engineer, to HCD-Environmental Services for review and approval. The report and plan shall address the Post-Construction Stormwater Management Requirements (PCRs) for Development Projects in the Central Coast Region. The plan shall include the location of the drainage facilities and construction details. The Stormwater Plan shall include the construction inspection schedule that identifies when the inspections will be completed, who will conduct the inspection (i.e., PG, PE, and/or Special Inspector), a description of the required inspection, inspector name, and the completion date. Prior to issuance of any grading or building permits, the applicant shall submit certification from a licensed practitioner that they have reviewed and approved the Stormwater Control Plan for conformance with the geotechnical recommendations. (HCD-Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to issuance of any grading or building permits, the applicant shall submit a Stormwater Control Report and a Stormwater Control Plan to HCD-Environmental Services for review and approval.

Prior to issuance of any grading or building permits, the applicant shall submit certification from a licensed practitioner that they have reviewed and approved the stormwater control plan for conformance with the geotechnical recommendations.

Exhibit C

This page intentionally left blank.



LEGEND:

P.O.B. ——— POINT OF BEGINNING
 ——— PROJECT BOUNDARY LINE
 - - - ADJACENT LOT LINE
 - - - EXISTING EASEMENT LINE
 - - - PROPOSED EASEMENT LINE



David Darling

K:\2020\201154_MBARI-MOSSLANDING\SUR\DWG\20201154_MBARI_SCENICESMT.DWG



1730 N. FIRST STREET
 SUITE 600
 SAN JOSE, CA 95112
 408-467-9100
 www.bkf.com

Subject **CONSERVATION & SCENIC EASEMENT**
LANDS OF M.B.A.R.I.

Job No. 20201154 MOSS LANDING, CA
 By PN Date 8/02/2022 Chkd. DSD
 SHEET 1 OF 1

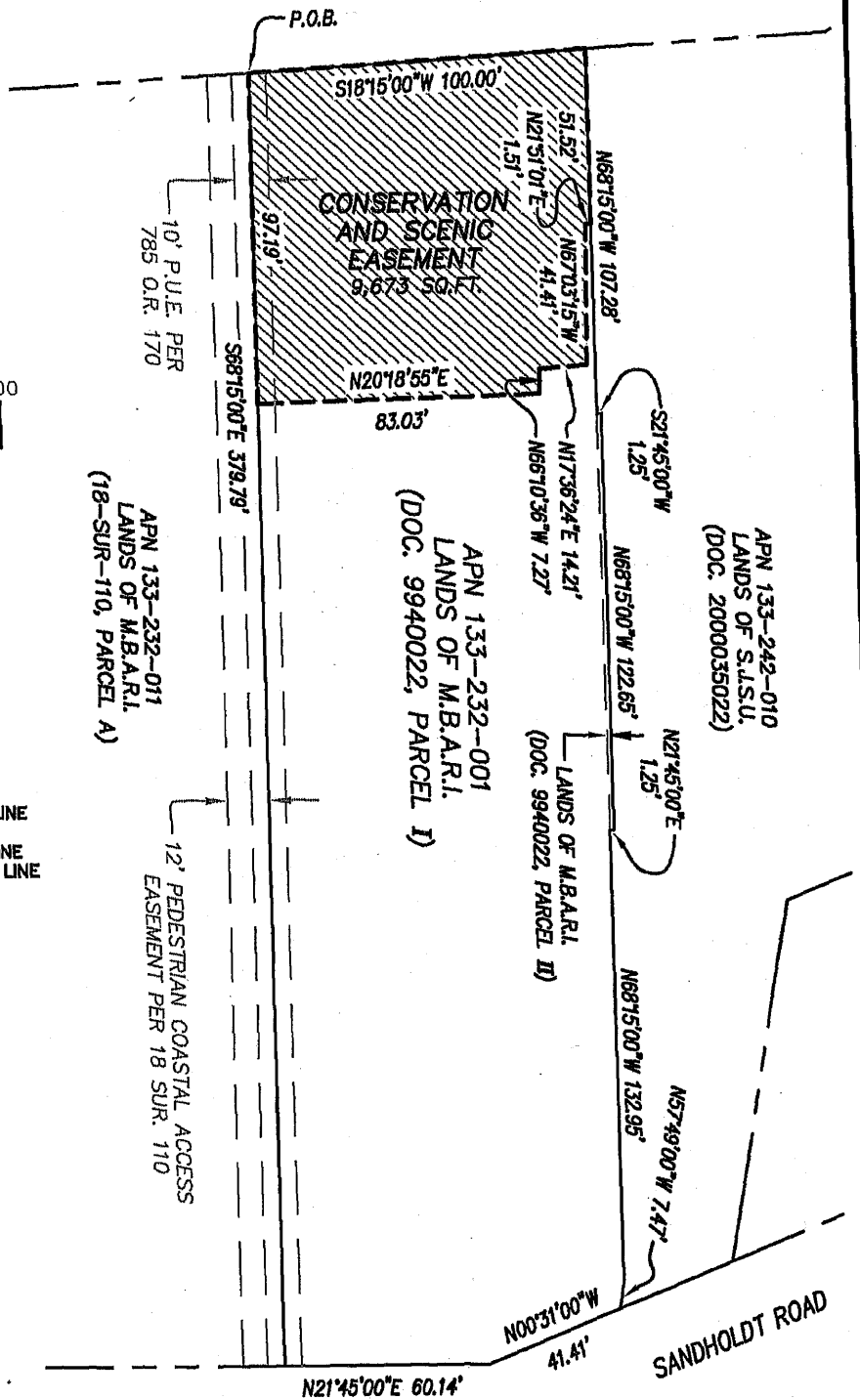


EXHIBIT "B"

PLAT TO ACCOMPANY LEGAL DESCRIPTION

This page intentionally left blank