CALIFORNIA COASTAL COMMISSION

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Th7 & Th8

CCC-03-CD-14-A & CCC-19-AP-01 (SHC Half Moon Bay, LLC) June 13, 2019

APPENDIX A

Appendix A: Consent Cease and Desist Order Amendment No. CCC-03-CD-14-A and

Consent Administrative Penalty CCC-19-AP-01

Attachment A: Consent Cease and Desist Order No. CCC-03-CD-014, dated April 9, 2004

Attachment B: Public Access Amenities Brochure

CONSENT CEASE AND DESIST ORDER AMENDMENT NO. CCC-03-CD-14-A AND CONSENT ADMINISTRATIVE CIVIL PENALTY CCC-19-AP-01

(Ritz-Carlton)

Through Consent Cease and Desist Order Amendment No. CCC-03-CD-14-A ("Consent Amendment") and Consent Administrative Penalty Order No. CCC-19-AP-01 (collectively referred to herein as "this Consent Order"), the Commission and Respondents desire to settle all claims and controversies associated with Respondents' non-compliance with Special Condition No. 2a of Coastal Development Permit ("CDP") No. 3-91-71/1-95-47, and Consent Cease and Desist Order No. CCC-03-CD-14, and establish a framework for compliance going forward.

CONSENT CEASE AND DESIST ORDER AMENDMENT CCC-03-CD-14-A¹

Pursuant to its authority under California Public Resources Code ("PRC") Section 30810 and California Code of Regulations, Title 14, Sections 13188(b), the California Coastal Commission ("the Commission"), with the consent and agreement of SHC Half Moon Bay, LLC, hereby amends Consent Cease and Desist Order No. CCC-03-CD-14 (the "Original Order"), which was approved by the Commission on April, 16, 2004, by restating all provisions intended to have continuing effect (in modified form where applicable), removing obsolete provisions, and adding new provisions, such that this document supersedes and replaces the Original Order in its entirety. By and through this Consent Amendment of the Original Order, the Commission hereby orders and authorizes SHC Half Moon Bay, LLC, their successors, assigns, employees, agents, and contractors, and any persons acting in concert with any of the foregoing (hereinafter "Respondents") to, and Respondents agree to take all actions required and authorized by this Consent Amendment including, but not limited to, the following:

- 1.1. Cease and desist from engaging in any further development, as that term is defined in the Coastal Act (PRC Section 30106), that would normally require a CDP, on the property identified in Section 14 ("Property") of this Consent Order, or that is inconsistent with CDP No. 3-91-71/1-95-47 without first obtaining all necessary authorizations.
- 1.2. Fully and completely comply with the terms and conditions of CDP No. 3-91-71/ 1-95-47 ("Base CDP"), including by implementing and maintaining the Public Access Compliance Plan, as detailed in Section 4, below.

Although denominated an "amendment," as indicated in Section 1 and footnote 2, this new under setually supersedes and replaces the prior order in its entirety.

² For reference, a copy of the Original Orders is included as Attachment A to this Consent Order. The terms of this Consent Order amend and restate the Original Order in its entirety such that this Consent Order is the operative document, once authorized. If, for any reason, this Consent Order is determined to be invalid or lose force and effect, Respondent agree to comply with the terms and conditions of the Original Order, as previously authorized by the Commission.

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- 1,3. Fully and completely comply with this Consent Amendment of the Original Order.
- 1.4. Cease and desist from taking any action that would discourage or preclude public access to public beaches, public trails, and parking areas designated for public use.

CONSENT ADMINISTRATIVE PENALTY ORDER CCC-19-AP-01

Pursuant to its authority under PRC Section 30821 and its authority to authorize development, the Commission hereby orders Respondents to pay an administrative civil penalty, as detailed in Section 7, below, and orders and authorizes Respondents to take other action in lieu of paying a larger penalty, including the addition of improved public access signage and expanded coastal access parking, as described more fully in Sections 4, 5 and 6, and by complying fully with all terms and conditions listed herein, and Respondents have agreed to same.

3. VIOLATIONS AT ISSUE

The violations being resolved by this Consent Order consist of Respondents' non-compliance with Special Condition No. 2a of Coastal Development Permit ("CDP") No. 3-91-71/1-95-47, and Consent Cease and Desist Order No. CCC-03-CD-14, including failure to: 1) provide required public parking spaces, 2) implement the public parking program, 3) post and maintain public parking signage, 4) provide public access brochures, and 5) train employees on the use of coastal access parking and other coastal access amenities, occurring prior to the date of this Consent Order.

4. PUBLIC ACCESS COMPLIANCE PLAN

4.1. Within 30 days of issuance of this Consent Order, Respondents shall submit, for the review and approval of the Executive Director, a proposed Public Access Compliance Plan ("Compliance Plan") that provides the means for public access to and across the Property as originally required and in compliance with the Base CDP, and the Original Order, as amended and restated herein, and as a means to assure and verify compliance therewith. The Compliance Plan shall identify any improvements required to effectuate public access without charge from sunrise to one hour after sunset daily to the 25 public coastal access parking spaces located within the hotel parking garage ("Garage Parking"), or as otherwise approved by the Executive Director. Respondent may propose specific hours in the Compliance Plan for which public access without charge to the Garage Parking is provided, consistent with the intent of this Consent Order, the Original Order and the CDP, so long as the hours proposed provide for daily access to the Garage Parking from at least sunrise to one hour after sunset. It is the sole responsibility of Respondents to design and, upon approval by the Executive Director, successfully implement and maintain the Compliance Plan. The Executive Director, in his or her discretion, may review and approve amendments to the Compliance Plan, as requested by Respondents in the future, consistent with terms and conditions of this Consent Order.

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A. This Consent Order requires Respondents, and Respondents have agreed to include, as a component of the Compliance Plan, the installation and maintenance of a coastal parking management station adjacent to the entrance of the Garage Parking. Respondent shall be responsible for staffing the parking management station during the hours set forth in section 4.1 above to assure that the Garage Parking is being used solely by non-hotel overnight guests/non-golf guests ("Approved User") coming to access the public access trails on the hotel premises and that Garage Parking access is available for those seeking to access the coast. To the extent that anyone parking in the Garage Parking appears to not be an Approved User, the Respondent staff shall respectfully call to such person's attention the limitations as outlined on the garage signage and shall request that such person exit the Garage Parking. To the extent such person refuses to exit the Garage Parking, Respondent staff shall call the local police.

The Compliance Plan shall include a plan to identify both the number of Approved Users and those identified by Respondent's staff that appear not to be an Approved User who use the coastal parking spaces on a monthly basis to assess the level of Garage Parking use consistent with this Consent Order and as required by the permit. These monthly numbers shall be used to generate biannual reports to be submitted to the Executive Director for review and approval. The bi-annual reports must demonstrate that unimpeded access is being provided at all times as required by the CDP and this Consent Order. Respondents may submit a request to the Executive Director to make modifications to the Compliance Plan that would improve the effectiveness of the Compliance Plan in providing unimpeded access, consistent with Section 4.5, below.

- 4.2. The Compliance Plan shall include a detailed description of a public access information area located within the Garage Parking that includes an informational/educational sign describing through text and photographs and/or graphics, 1) the importance and biological significance of sensitive coastal resources located within and directly adjacent to the Property and 2) the coastal access trails and amenities located on and adjacent to the Property. This element of the Compliance Plan shall be implemented consistent with Section 6.2, below.
 - A. The public access information area shall also contain an area where a public access amenities brochure is always stocked and made available to all members of the public. The brochure shall be similar to that which was created and distributed in accordance with the Original Orders. A sample of the brochure approved under the Original Order is included as Attarhment B to this Consent Order. Respondents may submit a request

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to use the previously approved brochure or submit a new brochure for Executive Director approval.

- 4.3. Consistent with the Original Order, and contained as an element of the new Compliance Plan adopted pursuant to this Consent Order, Respondents shall continue the employee-training program established and implemented under the Original Order.³ Accordingly, Respondents' employees who staff the hotel's front entrance and parking operation and guest reception and guest service areas on the lobby level (collectively "Representative Employees") shall continue to be required to inform anyone who makes any inquiry about trails, the beach, coastal access, the bluff-top overlook, or parking about the onsite, free public coastal access parking available within the Garage Parking.
 - A. To further increase the effectiveness of the employee-training program, Respondent shall bi-annually conduct a coastal access parking training seminar for the Representative Employees who interact with members of the public likely to use the free public coastal access parking on how to inform anyone who makes any inquiry about trails, the beach, coastal access, the bluff-top overlook, or parking, about the onsite, free public coastal access parking available within the Garage Parking. Such coastal access parking training seminar may be conducted as part of the botel's semi-annual meetings of employees. Respondents shall submit a brief report verifying that the seminar was conducted that contains the titles and number of those employees that attended the training.
- 4.4. If the Executive Director, at any time before approval of the Compliance Plan, determines that any modifications or additions to the Compliance Plan as submitted pursuant to section 4 are necessary, he/she will notify Respondents and Respondents shall complete all requested modifications and resubmit a revised Compliance Plan for review and approval within the timeframe specified by the Executive Director in the notification.
- 4.5. If Respondents submit a request for future amendments to the Compliance Plan and the Executive Director determines that any such amendment request needs modifications or additions, he/she will notify Respondents and Respondents shall complete all requested modifications and resubmit a revised request for modification of the approved Compliance Plan for review and approval within the timeframe specified by the Executive Director in the notification.
- 4.6. Respondents shall fully implement the approved Compliance Plan based on the following timeframe to commence and complete development:

Although the employee-training program is contained as an element of the Compliance Plan required by this Consent Order, the employee-training program requirement from the Original Order is ongoing until review and approval of the Compliance Plan required under this Consent Order is authorized and implemented.

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- A. Within 45 days of approval of the Compliance Plan by the Executive Director, Respondents shall commence implementation of the Compliance Plan as authorized by this Consent Order. If, during the construction activities associated with the implementation of the Compliance Plan, there is any loss of access to any of the 25 parking spaces located in the Garage Parking, equivalent or greater coastal access parking spaces must be provided until full access to the Garage Parking is restored. In the event that construction activities associated with the implementation of the Compliance Plan may reduce access to the Garage Parking, Respondents shall submit, as an element of the Compliance Plan, a proposed program to provide equivalent or greater coastal access parking. The proposed program must be in accordance with City of Half Moon Bay regulatory requirements.
- B. Respondents shall carry out the implementation of the Compliance Plan expeditiously and shall finalize construction as promptly as is reasonably possible, but in no event more than 45 days following commencement of construction, unless the Executive Director extends this deadline pursuant to Section 9, below.
 - i. Within 10 days of completion of construction of the Compliance Plan, Respondents shall provide a written report, including photographic evidence, depicting all aspects of the Compliance Plan to evidence that all elements of the Compliance Plan were conducted pursuant to the requirements of the Compliance Plan, as approved by the Executive Director. After review of the evidence, if the Executive Director determines that the Compliance Plan has not been effectuated pursuant to the approved Compliance Plan, in whole or in part, the Executive Director will specify any measures necessary to ensure that the approved Compliance Plan is fully complied with. Respondents shall implement any additional specified measures, within the time period specified by the Executive Director. Commission staff shall alert Respondents to reports from members of the public stating that Respondents are not in compliance with the Compliance Plan or this Consent Order.
- 4.7. Respondents shall pay all costs associated with the planning, preparation, implementation, construction, maintenance, and monitoring of the Compliance Plan. All work to be performed under this Consent Order shall be done in compliance with all applicable laws and this Consent Order does not obviate Respondents' need to attain any and all government approvals necessary for any development ordered and authorized herein.

⁴ The public shall be allowed continued access to the coastal public access parking while the process of review and approval of the Compliance Plan is undertaken.

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5. CAÑADA VERDE PARKING LOT EXPANSION AND PUBLIC INFORMATION AMENITIES

- Within 30 days of issuance of this Consent Order, Respondents shall submit, for the review and approval of the Executive Director, a proposed plan to increase the number of marked parking spaces in the public parking lot at Cañada Verde ("Cañada Verde Plan") that provides for an increase in the number of public parking spaces available at the Cañada Verde parking lot. The plan shall increase the number of parking spaces to the maximum number of spaces that can be achieved at the current location of the Cañada Verde parking lot, and consistent with the Chapter 3 polices of the Coastal Act. At a minimum, the expansion will result in an increase of no less than seven (7) parking spaces in accordance with any City of Half Moon Bay regulatory requirements.
- The Cañada Verde Plan shall include a detailed description of a public access information area that will be located adjacent to or within the Cañada Verde parking lot that includes an informational/educational sign which describes, through text and photographs and/or graphics, 1) the importance and biological significance of sensitive coastal resources located within and directly adjacent to the Property and 2) the coastal access traits and amenities located on and adjacent to the Property, including the availability of public access parking in the Garage Parking. This element of the Cañada Verde Plan shall be implemented consistent with Section 6.2, below.
- 5.3 Within 15 days of receipt of written approval of the Cañada Verde Plan by the Executive Director, Respondents shall apply for any permits required in connection with the Canada Verde Plan, or if no permits are required, shall commence implementation of the Cañada Verde Plan as authorized by this Consent Order. The reconfigured Cañada Verde parking lot shall be open to use by the public no later than 15 days from commencement of construction according to the Cañada Verde Plan, if only restriping is required, or 60 days if construction is required.
 - A. If, during the construction activities associated with the implementation of the Cañada Verde Plan, there is any loss of access to the current 15 parking spaces located in the Cañada Verde parking lot, temporary equivalent or greater coastal access parking, as close as possible to the Cañada Verde parking lot, must be provided until full access to the Cañada Verde parking lot is restored. Respondents must submit, as an element of the Cañada Verde Plan, an interim parking plan devised to provide equivalent or greater coastal access parking, in the event that any construction related activity, including paving or restriping of the current lot, associated with the implementation of the Cañada Verde Plan reduces public coastal parking access within the Cañada Verde parking lot. The

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interim parking plan shall indicate where the alternative parking will be provided and for what period of time it will be necessary.

5.4 Within 10 days of completion of construction of the Cañada Verde Plan,
Respondents shall provide a written report, including photographic evidence,
depicting all aspects of the Cañada Verde Plan to evidence that the construction of
the new Cañada Verde Parking lot was conducted consistent with the requirements of
the Cañada Verde Plan, as approved by the Executive Director. After review of the
information, if the Executive Director determines that the Cañada Verde Plan has not
been effectuated in whole or in part, the Executive Director will specify any
measures necessary to ensure that Respondents fully comply with the approved
Cañada Verde Plan. Respondents shall implement any additional specified measures,
within the time period specified by the Executive Director. Except as provided in
this Section 5, the City of Half Moon Bay retains jurisdiction over enforcement of all
parking restrictions and requirements of the Canada Verde public parking lot.

6. SIGNAGE PLAN

- 6.1 Within 30 days of the date of issuance of this Consent Order, Respondents shall prepare and submit a Signage Plan, for the review and approval of the Executive Director, that will clearly direct members of the public wishing to access the coast using the Garage Parking and/or the Cañada Verde parking lot to those coastal public access parking locations. The Signage Plan shall include, at a minimum, a map showing exact locations of each sign, the text of each sign, the design and color of each sign, and the inclusion of the Commission's logo and recognition of our role in providing the signs. The signs shall provide clear direction to members of the general public as to where public access parking is provided, how to access the public access parking areas, when public access parking is available, and who to contact for information to report any issues encountered in regards to the provision of unfettered access to the public access parking areas.
 - A. The Signage Plan shall provide for; 1) additional signage in the Garage Parking, including signage identifying each individual coastal access parking spot along with wall signage that also warns those improperly using the Garage Parking, including golfers and overnight hotels guests, that their vehicles are subject to being towed to an impound lot pursuant to California Vehicle Code section 22658(a); 2) the continuation of the sign currently posted on Miramontes Point Drive, adjacent to the Cañada Verde parking lot, as approved in compliance with the Original Order; 3) the signage posted in the Cañada Verde parking lot, as approved pursuant to section 6.2 below; 4) the continuation of the sign erected at the intersection of Miramontes Point Drive and Highway One that states that Free Public Coastal Access Parking is available within the Ritz Carlton parking garage, as approved in compliance with the Original Order; and 5)

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> revised signage directing the public coastal access users along Miramontes. Point Drive to the Garage Parking.

- 6.2 Consistent with Sections 4.2 and 5.2, above, the following requirements are for the signage associated with public access information areas to be located at the Cañada Verde parking lot and within the Garage Parking. The signs are to be a minimum of 48 inches by 60 inches and installed near the door where people would likely be walking out from the Garage Parking and alongside the sidewalk exiting the Cañada Verde parking lot that leads towards the beach access (or as otherwise approved by the Executive Director), made easily accessible to children, and maintained so that the text and photographs and/or graphics are readable.
 - A. These signs shall include an educational component that provides information about the area through photographs, diagrams, and text. Appropriate subject matter includes information about the flora and fauna of habitats in and around Half Moon Bay or coastal processes such as erosion, sand transport, wave dynamics.
- 6.3 Within 30 days of receiving notice of the Executive Director's approval of the Signage Plan, Respondents shall promptly order the approved signs, and when received, promptly install all signs approved in the Signage Plan.
- Within 10 days of completion of installing the signs, Respondents shall provide a written report, including photographic evidence, depicting all aspects of the Signage Plan to demonstrate implementation of the Signage Plan pursuant to the requirements of the Signage Plan, as approved by the Executive Director. After review of the information submitted, if the Executive Director determines that the signage plan has not been implemented in whole or in part, the Executive Director will specify any measures necessary to ensure that the approved Signage Plan is fully complied with. Respondents shall implement any additional specified measures, within the time period specified by the Executive Director, in no case less than 30 days. The Executive Director may review and approve any amendments to the Signage Plan as requested by Respondents in the future, provided such request is consistent with the terms and conditions of this Consent Order, the underlying CDP and the Coastal Act.
- 6.5 If at any time, the text, photographs, or graphics on the signs are blurred, unreadable, or obscured in any way due to weathering, vandalism, disrepair, or the like, Respondents shall immediately notify the Executive Director and then commence to repair the sign(s) within 14 days of discovering such an issue,

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7 SETTLEMENT OBLIGATION

Pursuant to: (1) the Commission's authority under PRC Section 30821, inter alia; and (2) the agreement between the parties to resolve these matters in settlement, Respondents have agreed to pay, and the Commission hereby orders Respondents to pay, a monetary settlement in the amount of \$1,600,000. Respondents shall make an initial payment of \$800,000 within 30 days of issuance of this Consent Order, with \$600,000 to be paid directly to the Peninsula Open Space Trust to help fund their purchase of the Halsted Property, which is to be used for open space and public access to the coast. The remainder of that money from the initial payment will go to the Violation Remediation Account. The remaining fifty (50) percent of the monetary settlement shall be paid in two annual installments of \$400,000 each, due on the first and second anniversaries of the effective date of this Consent Order. Should Respondents transfer the Property through any type of sale prior to the completion of the above structured payment plan, Respondents agree that any amount of monies that remain due shall be paid within five (5) days of the finalization of that transaction. The settlement monies, other than those going to assist in the acquisition of the Halsted property, shall be deposited in the Violation Remediation Account of the California Coastal Conservancy Fund (see PRC§ 30823), or into such other public account as authorized by applicable California law at the time of the payment, and as designated by the Executive Director. The settlement monies shall be submitted to the Commission's San Francisco office, at the address provided in Section 9.0 and directed to the attention of Justin Buhr of Commission staff, payable to the account designated under the Coastal Act, and shall include a reference to this Consent Order by number. Failure to pay these settlement monies required by this Consent Order may result in the Commission recording a lien on the Property pursuant to PRC section 30821(e) in the amount of any outstanding obligation as set forth in this Consent Order, which shall have the force, effect, and priority of a judgment lien.

8. COMPLIANCE OBLIGATION

Strict compliance with this Consent Order by all parties subject thereto is required. Failure to comply with any term or condition of this Consent Order, including any deadline contained in the Consent Order, unless the Executive Director grants an extension, as provided herein, will constitute a violation of this Consent Order and will result in Respondents being liable for stipulated penalties in the amount of \$5,000 per day per violation. Respondents shall pay stipulated penalties within 10 days of written demand by the Executive Director for such penalties regardless of whether Respondents have subsequently complied. If Respondents violate this Consent Order, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to PRC Sections 30820, 30821, 30821.6, and 30822, as a result of the lack of compliance with this Consent Order.

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9. SUBMITTAL OF DOCUMENTS

All plans, reports, photographs and any other materials submitted to the Commission pursuant to this Consent Order most be sent to:

California Coastal Commission Attn: Justin Buhr 45 Fremont, Suite 2000 San Francisco, CA 94105 (831) 427-4863

With a copy to: California Coastal Commission Attn: Io Ginsberg 45 Fremont, Suite 2000 San Francisco, CA 94105 (415) 904-5220

In the event that Commission staff moves offices, we will provide you with an updated address at which all plans, reports, photographs and any other materials required to be submitted to the Commission pursuant to this Consent Order must be delivered. Once notice of such a change has been sent to Respondents, submittals must be timely received at this new address to maintain full compliance with this Consent Order.

10. MODIFICATION OF DEADLINES

Prior to the expiration of any of the deadlines established by this Consent Order, Respondents may request from the Executive Director an extension of any such unexpired deadlines. Such a request shall be made in writing ten (10) days in advance of the deadline and directed to the Executive Director, care of Justin Buhr, consistent with Section 9.0 of this Consent Order. The Executive Director may grant an extension of deadlines upon a showing of good cause if the Executive Director determines that Respondents have diligently worked to comply with its obligations under this Consent Order but cannot meet deadlines due to unforeseen circumstances beyond its control. A violation of deadlines established pursuant to this Consent Order will result in stipulated penalties, as provided for in Section 8.0.

11. SITE ACCESS

Respondents shall provide Commission staff and any agency having jurisdiction over the work being performed under this Consent Order with access to the Property. Commission and other relevant agency staff may enter and move freely about the following areas: (1) the portions of the Property on which the violations are located; (2) any areas where work is to be performed pursuant to the Consent Order or pursuant to any plans adopted pursuant to the Consent Order or pursuant to any development approved through a CDP; (3) adjacent areas of the Property and any other area necessary in order to view the areas where work is being

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performed pursuant to the requirements of this Consent Order; and (4) any other areas where evidence of compliance with this Consent Order may lie for purposes including, but not limited to, inspecting records, operating logs, and contracts relating to the property and overseeing, inspecting, documenting, and reviewing the progress of Respondents in carrying out the terms of the Consent Order. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

12. REVISIONS OF DELIVERABLES

The Executive Director may require revisions to deliverables required under this Consent Order, and Respondents shall revise any such deliverables consistent with the Executive Director's specifications, and resubmit them for further review and approval by the Executive Director, by the deadline established by the modification request from the Executive Director.

13. PERSONS SUBJECT TO THIS CONSENT ORDER

Respondents and any persons acting in concert with any of the foregoing are jointly and severally subject to all the requirements of this Consent Order, and shall undertake work required herein according to the terms of this Consent Order, including any future amendments to this Consent Order. Respondents shall provide notice to all successors, assigns, and potential purchasers of the Property of any remaining obligations or restrictions under this Consent Order and the Base CDP.

14. IDENTIFICATION OF THE PROPERTY

The property that is the subject of this Consent Order is described as follows: One Miramontes Point Road, Half Moon Bay, San Mateo County; APNs 066-092-780 and 066-092-770 ("Property").

15. COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of these Coastal Act violations pursuant to PRC Section 30810 and jurisdiction to issue administrative civil penalties pursuant to PRC Section 30821. Respondents agree that the jurisdictional requirements pursuant to both Section 30820 and 30821 for the issuance of a Cease and Desist Order and Administrative Penalties have been met. In light of the desire of the parties to settle these matters. Respondents agree not to, and shall not, contest the Commission's jurisdiction to issue or enforce this Consent Order at a public hearing or any other proceeding by or before the Commission, any other governmental agency, any administrative tribunal, or a court of law.

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16. EFFECTIVE DATE AND TERMS OF THE CONSENT ORDER

The effective date of this Consent Order is the date the Commission votes to approve this Consent Order. This Consent Order shall remain in effect permanently unless and until rescinded by the Commission.

17. FINDINGS

This Consent Order is issued on the basis of the findings adopted by the Commission, as set forth in the document entitled "Findings for Consent Cease and Desist Order Amendment No. CCC-03-CD-14-A and Administrative Penalty Order No. CCC-19-AP-01" and the findings adopted by the Commission on April, 16, 2004 for Consent Cease and Desist Order CCC-03-CD-14. The Commission has authorized the activities required in this Consent Order and has determined them to be consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act, if carried out consistent with the terms of this Consent Order.

18. GOVERNMENT LIABILITIES

Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to the Consent Order, nor shall the State of California, the Commission or its employees be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to the Consent Order.

19. RECORDATION OF THIS CONSENT ORDER

- 19.1 Within 30 days after execution of this Consent Order by the Commission, Respondent shall record this Consent Order against the Property in the County Recorder's Office for where the property lies. To ensure the recordation will occur smoothly, Respondents shall properly notarize this Consent Order at the time the document is signed by Respondents. The Executive Director will also properly notarize the Consent Order at the time the document is signed by the Executive Director. This Consent Order may be executed in counterparts.
- 19.2 The cover page for the recorded document shall indicated that, once recorded, the original recorded document shall be mailed to the Commission, attention of Justin Buhr, at the address listed in Section 9 of this Consent Order. Respondent shall also provide a certified copy evidencing the recordation of this Consent Order within one week of the recordation.

20. SETTLEMENT OF CLAIMS

The Commission and Respondents agree that this Consent Order settles the Commission's monetary claims for relief from Respondents for the violations of the Coastal Act more

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specifically enumerated in Section 3, above,, occurring prior to the date of this Consent Order, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under PRC Sections 30805, 30820, 30821, and 30822), with the exception that, if Respondents fail to comply with any term or condition of this Consent Order, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violations of this Consent Order. In addition, this Consent Order does not limit the Commission from taking enforcement action for Coastal Act violations on the Property beyond those that are the subject of the violations of the Coastal Act enumerated herein.

21. CONTRACTUAL OBLIGATION

This Consent Order constitutes both an administrative order issued to Respondents personally and a contractual obligation between Respondents and the Commission, and therefore shall remain in effect until all terms are fulfilled, regardless of whether Respondents have a financial interest in or own the Property.

22. SUCCESSORS AND ASSIGNS

This Consent Order shall run with the land, binding Respondents and all successors in interest, lessees, heirs and assigns of Respondents, and future owners of the Property. Respondents shall provide notice to all successors, lessees, managers, heirs, assigns and potential purchasers of the Property of any remaining obligations under this Consent Order. Respondents shall provide notice to all successors, assigns, and potential purchasers of the Property of any remaining obligations or restrictions under this Consent Order, the Original Orders and the Base CDP.

23. MODIFICATIONS AND AMENDMENTS

Except as provided in Section 10.0 of this Consent Order, and for other minor, immaterial modifications, upon mutual written agreement of the Executive Director and Respondents, this Consent Order may be amended or modified only in accordance with the standards and procedures set forth in sections 13188(b) of Title 14 of the California Code of Regulations.

24. NATURE OF ORDERS AND OF CONSENT

24.1 Through the execution of this Consent Order, Respondents agree to comply with the terms and conditions of this Consent Order. This Consent Order orders and authorizes the construction and implementation of new development, among other things, outlined in this Consent Order. Nothing in this Consent Order conveys any right to development on the Property other than the work expressly authorized by this Consent Order. Any development subject to Coastal Act permitting requirements that is not specifically authorized under this Consent Order requires a coastal development permit. Nothing herein provides any assurance of the City of Half Moon Bay's or the Commission's approval of any future application(s) by Respondents for coastal development permits.

Consent Cease and Desist Order CCC-03-CD-14-A: Consent Administrative Penalty CCC-19-AP-01 (Ritz Carlton) Page 14 of 15

Through the execution of this Consent Order, Respondents agree to comply with this Consent Order, including all terms and conditions contained herein.

24.2 Respondents further agree to condition any contracts for work related to this Consent Order upon an agreement that any and all employees, agents, and contractors, and any persons acting in concert with any of the foregoing, adhere to and comply with the terms and conditions set forth herein.

25 SEVERABILITY

Should any provision of this Consent Order be found invalid, void, or unenforceable, such illegality or unenforceability shall not invalidate the whole, but this Consent Order shall be construed as if the provision(s) containing the illegal or unenforceable part were not a part hereof.

26 CONFLICT OF TERMS

Except as otherwise provided in this Consent Order, if any provision or condition contained in this Consent Order conflicts or is inconsistent with any provision or condition in the Original Order or Base CDP, the provisions and conditions contained herein shall govern and control.

27. CONTROLLING LAW

This Consent Order shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California.

28. NO LIMITATION OF AUTHORITY

- 28.1. Except as expressly provided herein, nothing in this Consent Order shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act (PRC Sections 30800 to 30824), including the authority to require and enforce compliance with this Consent Order and the authority to take enforcement action for Coastal Act violations beyond those that are specified in this Consent Order. Failure to enforce any provision of this Consent Order shall not serve as a waiver of the ability to enforce those provisions or any others at a later time.
- 28.2. Correspondingly, Respondents have entered into this Order and agreed not to contest the factual and legal bases for issuance of the Consent Order, and the enforcement thereof according to its terms. Respondents have agreed not to contest the Commission's jurisdiction to issue and enforce the Consent Order.

Consent Cease and Desist Order CCC-03-CD-14-A; Consent Administrative Penalty CCC-19-AP-01 (Ritz Carlton) Page **15** of **15**

29. INTEGRATION

This Consent Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in this Consent Order.

30. CERTIFICATION OF AUTHORITY

The person who signs this document on behalf of Respondents attests that he or she has the legal authority to bind Respondents and represents that the aforementioned party owns the Property.

31. STIPULATION

Respondents attest that they have reviewed the terms of this Consent Order and understand that its consent is final and stipulate to issuance of this Consent Order by the Commission.

32. SETTLEMENT VIA CONSENT ORDER

In light of the desire to settle this matter via this Consent Order and avoid litigation, pursuant to the agreement of the parties as set forth in this Consent Order, Respondents hereby agree not to seek a stay pursuant to PRC section 30803(b) or to challenge the issuance and enforceability of this Consent Order in a court of law or equity.

IT IS SO STIPULATED AND AGREED:
On behalf of Respondents:

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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 San Mate o before me, <u>Cinthya Costo</u> Here Insert Name of hew C Hart 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 CINTHYA COSTAKIS laws of the State of California that the foregoing Notary Public - California paragraph is true and correct. San Mateo County Commission # 2235575 My Comm, Expires Mar 24, 2022 WITNESS my hand and official seal. Place Notary Seal and/ar Stamp Above Signature of Notary Public OPTIONAL Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document. **Description of Attached Document** Title or Type of Document: Cowent Cose and Jesi's Document Date: 5./5. Number of Pages: Signer(s) Other Than Named Above: _ Capacity(ies) Claimed by Signer(s) Signer's Name: _ Signer's Name: _ □ Corporate Officer – Title(s): _____ □ Corporate Officer - Title(s): __ ☐ Partner — ☐ Limited ☐ General □ Partner - □ Limited □ General □ Attorney in Fact □ Individual □ Individual □ Attorney in Fact □ Guardian of Conservator □ Guardian of Conservator □ Trustee □ Trustee

□ Other:

Signer is Representing: _

Signer is Representing: _

□ Other:

CONSENT CEASE AND DESIST ORDER (April 9, 2004)

Pursuant to its authority under Public Resources Code Section 30810, the California Coastal Commission ("Commission") hereby orders and authorizes Vestar-Athens/YCP II Half Moon Bay, L.L.C., ("Respondents"), their employees, agents, including the Ritz-Carlton Hotel Company, L.L.C., and contractors, and any persons acting in concert with any of the foregoing to cease and desist from 1) undertaking on the identified property any activity or development that is inconsistent with CDP No. 3-91-71/1-95-47 as approved by the Commission; 2) undertaking on said property any development that requires a Coastal Development Permit, without obtaining such a permit, and 3) maintaining on said property any such development. Consistent with Public Resources Code Section 30810(b), the Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the original Permit. Accordingly, through the execution of this Order, the Respondents and all persons identified herein are ordered and authorized to undertake the activities specifically required by this Consent Cease and Desist Order.

DEADLINES AND PLANS

1.1 Provision of Public Parking Spaces and Public Signage

- 1. Respondents shall immediately and on an ongoing basis, ensure that 25 public parking spaces are readily available for public use on the Hotel premises during daylight hours commencing at sunrise and at least until one hour after sunset throughout the year, without charge. Respondents shall clearly identify 25 contiguous spaces from other available Hotel parking within its parking garage so that the 25 spaces are easily identified and exclusively accessible by the public during the defined time period. Additional signage shall be placed adjacent to the 25-space area, showing the way from the parking garage to the public access trails on the hotel premises.
- 2. Within 60 days of the date of issuance of this Order, Respondents shall prepare and submit, subject to the review and approval of the Executive Director of the Commission, a revised signage plan to be implemented on and adjacent to hotel premises, as originally required by the Permit. The plan shall include, but not be limited to: 1) additional signage adjacent to public parking located in the hotel parking garage as indicated in section 1 of this Order; 2) a sign to be posted on Miramontes Point Drive, adjacent to the existing 15-space lot for Canada Verde beach access. The sign shall indicate that the lot is a public parking lot and that 25 additional public parking spaces are available within the Ritz Carlton garage. The proposed wording and design of all signs must be reviewed and approved by the City of Half Moon Bay Planning Director prior to submittal to the Executive Director of the Commission; 3) an identical new sign to be

placed within the 15-car parking lot at Canada Verde that indicates that 25 additional public parking spaces are available within the Ritz Carlton parking garage; 4) a new sign or changes to the existing entrance sign announcing the Ritz Carlton Hotel, to be erected near the vicinity of the intersection of Miramontes Point Road and Highway One, text for the review and approval of the Executive Director, regarding the free Public Parking spaces available within the Ritz Carlton Parking Garage for public coastal access purposes; and 5) revised signage for the Hotel Greeter Station. There shall be at least two signs placed at the Hotel Greeter station: one that can be viewed from the road as visitors approach the station and one that can be viewed by the driver of a vehicle that stops parallel to the station. The signs shall indicate the availability of the 25 public parking spaces in the hotel garage, and shall explain how to obtain entry into the hotel garage.

Within 45 days of receiving notice of the Executive Director's approval of the signage plan, the Respondents shall implement the approved parking and signage. Photographs of the subject property shall be submitted to the Executive Director to document the identified parking area, the text and the placement of required signs.

1.2 Installation of Parking Permit Machines

- 1. In order to ensure compliance with the original Permit's access requirements, within 60 days of the issuance of this Order, Respondents shall submit, for the review and approval of the Executive Director, a plan for issuance of tokens or permits by a greeter if present or a mechanical device at the hotel greeter station and a similar mechanical device to receive the issued token or permits and allow entry into the hotel garage to be installed at the public entrance to the Ritz Carlton parking garage. The Respondents' greeting staff or the approved dispensing mechanical device shall allow the public to receive a parking entrance token or permit and to enter and exit the parking garage without requiring human assistance.
- 2. Respondents shall install the machines and have them working within 60 days of Executive Director approval.

1.3 Public Access Brochure or Pamphlet

In order to ensure that the public is knowledgeable of their rights as coastal visitors to the property, consistent with the terms of the original Permit, within 60 days of the date of issuance of this Order, Respondents shall submit, for the review and approval of the Executive Director, a draft brochure or pamphlet that identifies and describes all coastal access amenities adjacent to and on hotel premises. The pamphlet shall clearly identify both public parking areas, all coastal trails, bike paths, the bluff-top

overlook and the public restroom facilities. The pamphlet shall describe available hours and any limitations on use of any of the facilities consistent with CDP 3-91-71/1-95-47. After the Executive Director has approved the pamphlet, the Respondents shall make the brochure or pamphlet available at its greeter station within 30 days of Executive Director approval and shall make sure that copies of the approved brochure are always available for the public at that location.

1.4 Employee Training on Coastal Access Parking and other amenities

1. Within 30 days of the date of issuance of this Order, Respondents shall submit, subject to the review and approval of the Executive Director, its employee-training program for ensuring compliance with the public parking and other coastal access requirements of the Permit and this Order. The Respondents' employees shall be required to inform anyone who makes any inquiry about trails, the beach, coastal access, the bluff-top overlook, or parking about the onsite, free public parking within the hotel garage.

SETTLEMENT/COMPLIANCE OBLIGATION

In light of the intent of the parties to resolve these matters in settlement, Respondents have agreed to pay a monetary settlement in the amount of \$50,000. The settlement monies shall be deposited in the Violation Remediation Account of the California Coastal Conservancy Fund (See Public Resources Code Section 30823). Respondents shall submit the settlement payment amount within thirty (30) days of the effective date of this Consent Order, to the attention of Nancy Cave of the Commission, payable to the California Coastal Commission/Coastal Conservancy Violation Remediation Account. Commission staff will forward the settlement payment to the Coastal Conservancy. The Commission and Respondents further agree that this Consent Order settles all claims for relief for violations of the Coastal Act alleged in the NOI occurring prior to the date of this Consent Order, including potential monetary claims, (specifically including but not limited to any claims or actions for civil penalties, fines or damages under the Coastal Act (including Sections 30805, 30820, and 30822), or otherwise). Accordingly, Respondents agree to waive whatever right it may have to challenge the issuance and enforceability of this Consent Order in a court of law.

STIPULATED PENALTIES

Strict compliance with this Consent Order by all parties subject thereto is required. Failure to comply with any term or condition of this Consent Order, including any deadline contained in this Consent Order, unless the Executive Director grants an extension, will constitute a violation of this Consent Order, and if the Executive Director determines that a violation of the Consent Order has occurred, Respondents will be liable for stipulated penalties in the amount of \$500 per day per violation. Respondents shall pay stipulated penalties within 15 days of receipt of written demand by the

Commission for such penalties. In light of the specific nature of these violations, if Respondents violate this Consent Order, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30821.6, 30822 and 30820 as a result of the lack of compliance with the Consent Order and for any Coastal Act violations occurring after the date of issuance of this Consent Order.

WAIVER OF DEFENSES

In light of the intent of the parties to resolve these matters in settlement, Respondents have waived their right to contest the legal and factual basis and the terms and issuance of this Consent Order, including the allegations of Coastal Act violations contained in the Notice of Intent to issue a Cease and Desist Order dated October 23, 2003. Respondents' waiver herein is limited to the Commission's adoption, issuance and enforcement of this Consent Order and no other hearing or proceeding, and this Consent Order shall not be deemed an admission by Respondents on any matters including the findings referred to on page 5 of this Consent Order. Specifically, Respondents have waived their right to present defenses or evidence at a public hearing to contest the issuance and enforcement of the Consent Order. It is reiterated, however, that Respondents do not contest the Commission's jurisdiction and basis for purposes of adoption, issuance and enforcement of this Consent Order.

IDENTIFICATION OF THE SUBJECT PROPERTY

The property that is the subject of this Order is the property located at One Miramontes Point Road, Half Moon Bay, San Mateo County, APNs 066-092-780 and 066-092-770.

DESCRIPTION OF ALLEGED COASTAL ACT VIOLATIONS

The violations that are the subject of this Consent Order include the Respondents' failures to provide the public access to 25 public parking spaces as required in CDP No. 3-91-71/1-95-47. Respondents' failures are not in compliance with previously issued CDP No. 3-91-71/1-95-47, which required the provision of 25 public parking spaces and the public's right to access the 25 spaces. Other violations that are the subject of this Order include any future unpermitted development that occurs without the Respondents first obtaining a CDP, such as the installation of a tent, overflow parking area creation and helicopter flights to and from the Ritz Carlton, all of which were cited as occurring without CDPs at the subject property in the Notice to Commence a Commission Cease and Desist Order hearing dated October 23, 2003 (Exhibit 12).

COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of these alleged Coastal Act violations pursuant to Public Resources Code Section 30810. The Respondents agree that conditions for issuance of this Consent Cease and Desist Order under 30810 have been

Attachment A CCC-03-CD-014-A & CCC-19-AP-01 Page 4 of 6 met. Therefore, for the purposes of issuance and enforceability of this Consent Order, the Commission has jurisdiction to act as set forth in this Consent Order, and Respondents agree that they will not contest the Commission's jurisdiction to issue or enforce this Consent Order.

FINDINGS

The Coastal Commission is issuing this Order on the basis of the findings, as set forth in the attached document entitled "Staff Report for Cease and Desist Order No. CCC-03-CD-14."

EFFECTIVE DATE

This Order shall become effective as of the date of issuance by the Commission and shall remain in effect permanently unless and until rescinded by the Commission.

DEADLINES

The Executive Director for good cause may extend deadlines. Any extension request must be made in writing to the Executive Director and received by Commission staff at least ten (10) days prior to expiration of the subject deadline. The Executive Director shall grant an extension of deadlines upon a showing of good cause, if the Executive Director determines that Respondents have diligently worked to comply with their obligations under this Consent Order, but cannot meet deadlines due to unforeseen circumstances beyond their control.

ACCESS

Respondents agree to provide access to the subject property at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under this Consent Order. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission staff may enter and move freely about the portions of the subject property, and on adjacent areas of the property to view the areas where development is being performed pursuant to the requirements of the Consent Order for purposes of inspecting and reviewing the progress of Respondents in carrying out the terms of this Consent Order.

GOVERNMENT LIABILITIES

The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to this Consent Order. Respondents acknowledge and agree (a) to assume the risks to the

property that is the subject of this Consent Order and damage from such mazards in connection with carrying out activities pursuant to this Consent Order, and (b) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents and employees for injury or damage from such hazards.

SUCCESSORS AND ASSIGNS

This Order shall apply to and be binding upon the Respondents and their successors in interest, future owners of the property, heirs and assigns. Respondents shall provide notice to all successors, heirs and assigns of the ongoing obligations under this Consent Order. The undersigned warrants that he is authorized to sign on behalf of the Respondents.

Executed on April 9, 2004 by:

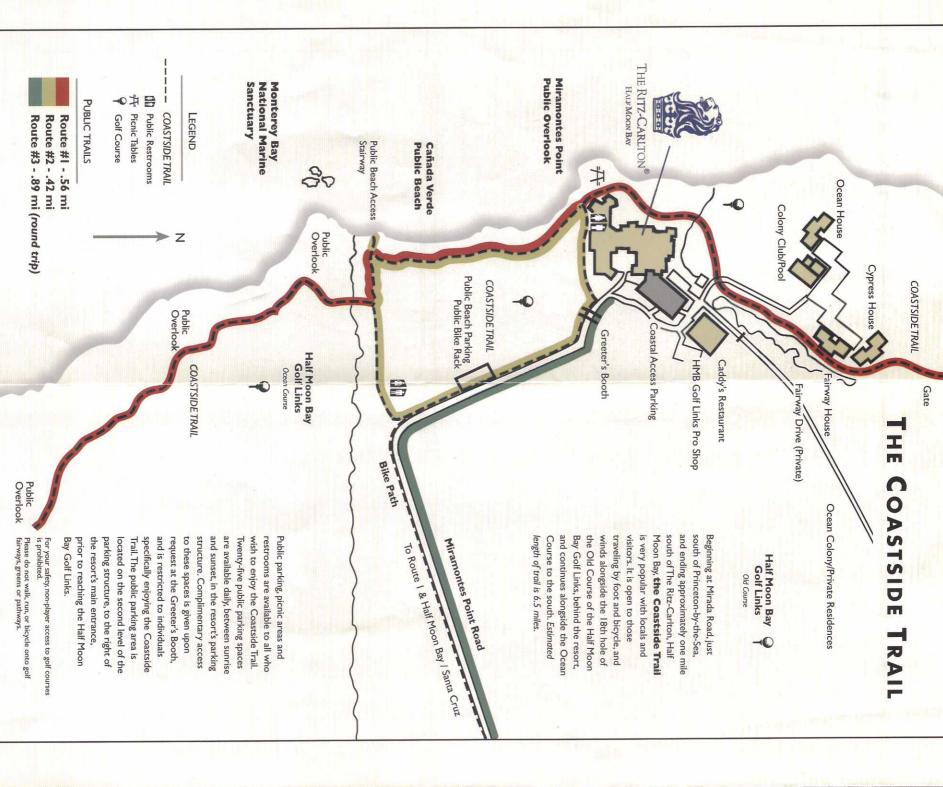
Vestar-Athens/YCP II Half Moon Bay, L.L.C., a Delaware limited liability company, ("Respondents")

By: Wester-Athers LtC, an Arizona limited liability company, Managing Member

Jeffrey J. Morgan, Authorized Representative

Executed in Santa Barbara on April 16, 2004, on behalf of the California Coastal Commission.

PETER DOUGLAS, Executive Director



LOCAL PARKS AND BEACHES

compelling and attractive spots in California. It features a wide The San Mateo County coast is one of the most geographically diversity of nature within easy reach of The Ritz-Carlton, Half Moon Bay.

Attachment B

CCC-03-CD-14-A & CCC-19-AP-01 Page 1 of 2

BURLEIGH MURRAY RANCH STATE PARK

English-style rambling barn and former dairy. This California State park features 1,300 acres of rolling hills, mixed stands of trees, a winding creek, beautiful vistas, as well as an old

Turn right and travel east for 1 mile on Purisima Rd. to the Park. Directions from Resort: Travel north on Hwy. 1 to Higgins Purisima Rd.

PURISIMA CREEK REDWOODS OPEN SPACE PRESERVE

THE SAN MATEO COUNTY

COASTSIDE

THE RITZ-CARLTON HALF MOON BAY

this 2500-acre park. Some trails are exclusively for mountain bikers and equestrians. Visit the redwood groves and over 20 miles of various hiking trails in

Directions from Resort: Travel south on Hwy. 1 to Purisima/Verde Rd. Turr left and travel east on Purisima Rd. to the park.

MONTARA STATE BEACH

birds and mammals. The sandy beach area is backed by beautiful For the energetic hiker or mountain biker, this park features stunning north end of the beach. miles to Montara State Beach. The entry is east of Hwy. 1, across from the coastal bluffs. Two parking areas west of Highway 1 serve the beach area Directions from the Resort: Travel north on Hwy. 1 for approximately 10 views of the San Francisco Bay, and is home to many California native

WEST SHORELINE ACCESS

This path skirts past the wetlands and around the backside of a radar station. The harbor, which hugs the trail, offers views of shorebirds, and novice kayakers. Behind the jagged rocks are distant views of Maverick's, which is known as one of the best big wave surfing spots

Maverick's parking lot and trailheads. Once at the end of Prospect, merge onto Harvard (the middle street of the fork in the road). Turn right onto Westpoint, which curves around to the Directions from the Resort: Travel north on Hwy. 1 to Princeton-by-the-Sea Furn left towards the Harbor onto Capistrano Rd. Turn left onto Prospect.

AMES FITZGERALD MARINE RESERVE

maximum low tide, as many as 30 acres of reef are visible. Open morning stretch of beach and rock is inhabited by an abundance of marine life, including red abalone, sea stars, sculpins and giant sea anemones. At One of the best places in California to view tide pools, this three-mile

California and follow to North Lake St. Directions from Resort: Travel north on Hwy. 1 to Moss Beach. Turn left on

picnicking, volleyball, surfing, fishing and hiking.

Directions from Resort: Travel south on Hwy. 1 for approximately 8 miles PAMPONIO STATE BEACH Two miles of sandy beaches greet visitors, who enjoy dunes, tide pools.

Directions from Resort: Travel south on Hwy. 1 for approximately 11 miles

AÑO NUEVO STATE RESERVE

the reserve is open for self-guided walks. Permits are complimentary This 4,000-acre Reserve is a major gathering area for as many as 3,500 breeding northern elephant seals, which may be seen year-round. the breeding season, mid-December through March, reservations must be made to visit the grounds with a ranger. From April to November, ing lot, over sand dunes and through native California flora. During There is a three-mile, round-trip hike from the Reserve's public parkand can be obtained at the entrance station from 8:30 a.m. to 3:30

to Año Nuevo State Reserve, and turn right into parking lot. Directions from Resort: Travel south on Hwy. 1 for approximately 30 mile.

VISITORS' GUIDE

MAPS OF HALF MOON BAY AND THE COASTSIDE

Including the Coastside Trail, Local Parks and Beaches

The Hart THE RITZ-CARLTON'
HALF MOON BAY

ntes Point Road, Half Moon Bay, CA 94019 650-712-7000

PLEASE ENJOY THE COASTSIDE RESPONSIBLY



