

CALIFORNIA COASTAL COMMISSION

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W11a

Staff: A. Spencer – LB
Date: October 22, 2020

ADMINISTRATIVE PERMIT

Application No.: 5-19-0365

Applicant: Los Angeles County Department of Public Works

Location: Will Rogers State Beach

Project Description: Widen a portion of the existing Marvin Braude Bicycle Path between the Los Angeles City/Santa Monica Border to the southern edge of Will Rogers State Beach Parking Lot 2 by 17 feet.

EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission on November 4, 2020. PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

John Ainsworth
Executive Director

by: Amrita Spencer
Coastal Program Analyst

STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

SPECIAL CONDITIONS: See pages seven through twelve.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. PROJECT DESCRIPTION

The applicant is proposing to widen approximately two miles of the existing Marvin Braude Bicycle trail along Will Rogers State Beach (City of Los Angeles) in order to improve public safety along the bicycle trail and to increase overall public access to and along the coast within the City of Los Angeles (**Exhibit 2**). The project site is bounded by the Pacific Palisades/Santa Monica Border to the south and the Will Rogers Parking Lot No. 2 to the north (**Exhibit 1**). The existing portion of the trail ranges between 13 feet and 14 feet wide across the project site. The applicant is proposing to construct a 16 to 17-foot addition to the trail to create a 30-foot multi-use pedestrian and bicycle path. The resulting 30-foot wide trail would be striped and separated into a 14-foot wide pedestrian trail and a 16-foot wide bicycle trail¹ in order to alleviate user access conflicts along this stretch of the access route. The project would also include the construction of a Class I bicycle path concrete slab bridge above the Santa Monica Canyon outflow. The bridge foundation consists of cast in steel shell piles and will be constructed behind the existing channel walls. The applicant is not proposing to relocate or realign the current trail at this time.

Will Rogers State Beach is owned by the California Department of State Parks (State Parks) and managed through the City of Los Angeles Department of Recreation and Parks (RAP). RAP has authorized the Los Angeles County Department of Public Works to serve as the applicant for the project and is developing a memorandum of understanding (MOU) with the applicant to maintain the trail upon completion of the project.

The subject beach trail is included in the larger Marvin Braude Bicycle Trail, a paved path located on the sandy beach that extends from Torrance to Pacific Palisades in the

¹ The bicycle trail would also accommodate other fast-moving forms of active recreation, such as skateboarding and rollerblading.

City of Los Angeles. The trail provides lateral public access and recreation opportunities to pedestrians, bicyclists, rollerbladers, and skateboarders. The proposed project is one of several projects to realign and/or repair the Marvin Braude trail in order to improve lateral public access along the coast. In 2011, the Commission approved CDP No. 5-10-052 to repave and realign a 1.71-mile section of the bicycle trail within the Playa Del Rey neighborhood of the City of Los Angeles. In 2019, the Commission approved CDP No. 5-18-0267 to widen one mile of Ocean Front Walk and two miles of the Marvin Braude Bicycle Trail from 14 feet to 30 feet within the City of Santa Monica. The proposed project would widen the Pacific Palisades portion of the trail to 30 feet to align the Will Rogers portion of the trail with the Santa Monica portion of the trail, which was widened pursuant to CDP No. 5-18-0267.

The City of Los Angeles does not have a certified Local Coastal Program for the Pacific Palisades area. Therefore, the Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act.

Section 30601 of the Coastal Act provides details regarding the geographic areas where applicants must also obtain a coastal development permit from the Commission in addition to obtaining a local coastal development permit from the City. These areas are considered Dual Permit Jurisdiction areas. Coastal zone areas outside of the Dual Permit Jurisdiction areas are considered Single Permit Jurisdiction areas. Pursuant to Section 30600(b) of the Coastal Act, the City of Los Angeles has been granted the authority to approve or deny coastal development permits in both jurisdictions, but all of the City's actions are appealable to the Commission. In this case, the project site is within the Dual Permit Jurisdiction area.

Pursuant to Section 30600(b) of the Coastal Act, the City of Los Angeles has opted to issue its own coastal development permits prior to certification of a Local Coastal Program (LCP) except for those permits eligible for issuance as administrative coastal development permits by the Executive Director under Section 30624. Section 30624 of the Coastal Act states in part:

“(a) The commission shall provide, by regulation, for the issuance of coastal development permits by the executive director of the commission or, where the coastal development permit authority has been delegated to a local government pursuant to Section 30600.5, by an appropriate local official designated by resolution of the local government without compliance with the procedures specified in this chapter in cases of emergency, other than an emergency provided for under Section 30611, and for the following nonemergency developments: improvements to any existing structure; any single-family dwelling; any development of four dwelling units or less within any incorporated area that does not require demolition, and any other developments not in excess of one hundred thousand dollars (\$100,000) other than any division of land, and any development specifically authorized as a principal permitted use and proposed in an area for which the land use portion of the applicable local coastal program has been certified...”

The Executive Director of the Coastal Commission may consider the issuance of an administrative coastal development permit for a proposed project pursuant to Section 30624 of the Coastal Act. If the project is not one of the above mentioned categories of development, or the development raises significant environmental/coastal issues, such issues cannot be appropriately addressed on the Commission's administrative permit process and must be addressed by the City through its local coastal development permit process. In this case, the proposed project has received the appropriate approvals from the local government and qualifies for the Commission's Administrative Calendar. The proposed development was reviewed and approved by the City of Los Angeles Department of City Planning. However, the City determined that a local permit was not required for the project because the scope of work was limited to improvements to the existing trail and directed the applicant to apply directly to the Coastal Commission for approval. The California Department of State Parks, the landowner, issued a letter of approval for the project on April 6, 2020.

Sea Level Rise and Coastal Hazards

The project site is located on the sandy beach, and is therefore vulnerable to erosion, flooding, wave runup, and storm hazards. These hazard risks are exacerbated by sea-level rise that is expected to occur over the coming decades. In this geographic area, the main concerns raised by beach development are impacts to public access and recreation, and whether hazardous conditions might eventually lead to a request to build a shoreline protection device to protect the proposed development, which would further impact public access and recreation and would have detrimental effects to natural processes and coastal resources.

The Coastal Commission has adopted the Rising Seas in California: An Update on Sea-Level Rise Science, released in April 2017 by a working group of OPC's Science Advisory team, and the State of California Sea Level-Rise Guidance: 2018 Update as the best available science its 2018 Sea-level Rise Policy Guidance. The OPC's most recent projections in its statewide sea-level rise guidance is that in this area sea levels may rise between 1.8 and 5.3 feet by the year 2100 though there is a risk of much more significant sea-level rise depending on various uncertainties, including the dynamics of ice sheet loss. The projection is given in a range largely because researchers cannot know exactly how much greenhouse gases we will continue to emit over the coming decades. Because the world has continued along the "business as usual" scenario (and data suggests temperatures and sea-level rise are tracking along the higher projections), OPC and the Natural Resources Agency have continued to recommend against relying on the lower projections in planning and decision-making processes.

The applicant submitted a Coastal Hazards report prepared by ESA on September 16, 2019 to analyze the project site's susceptibility to coastal flooding, erosion, wave uprush events, and other coastal hazards. In their analysis, ESA estimated 5.5 feet of sea level rise, which corresponds to a projected life-span of 80 years, a low emissions scenario,

and a medium-high risk aversion scenario² under the OPC's 2018 guidance for projects in the Santa Monica Tide Gauge. The study concluded that the project site is not likely to be impacted by coastal hazards in the short term (2019-2065). This is likely due to the existing trail's location between 250-450 feet inland of the mean high tide line. However, in the mid-term life of the structure (2065-2090), the northwestern half of the site is expected to be at risk from storm erosion. In the long term (2090-2140), the entire project site would be at risk from storm erosion and the shoreline would be expected to retreat to the proposed trail at the northwestern and southeastern ends of the project segment. Regular flooding and inundation are expected to occur in the long-term scenario. Staff also undertook an independent analysis of the project site using a 6.6-foot sea-level rise and 100-year storm surge scenario using CoSMoS. Similar to the applicant's hazard analysis, staff found that the trail was subject to coastal flooding and coastal erosion in the long term. A closer look at the CoSMoS model shows that the expected erosion and flooding are likely caused by the presence of the Santa Monica Creek outfall (**Exhibit 3**).

Given the project site's vulnerability to coastal hazards exacerbated by sea level rise- including flooding and erosion- an adaptation strategy is needed in order to ensure that lateral public access along Will Rogers State Beach is maintained. The applicant has prepared an adaptation plan that includes relocating the segment of the Marvin Braude bicycle trail southeast of the storm drain outlet to northwest end of The Beach Club in the future (**Exhibit 4**). The plan also includes rerouting this segment of the beach trail to the landward edge of the beach at the edge of development. Rerouting this segment per the adaptation plan would move this segment landward of where the shoreline is expected to retreat to, which is expected to reduce the long-term (2090-2140) vulnerability of this segment to regular flooding and inundation. Nevertheless, the Commission imposes **Special Condition 3**, which requires the applicant to submit a final adaptation plan for review and approval by the Commission's Executive Director to relocate the path further inland of the trail's current location in the event that the path or portions of the path are damaged by coastal hazards. The adaptation plan for the relocated path shall be wide enough to accommodate both bicycle and pedestrian uses.

Shoreline Protective Devices

The Coastal Act also contains policies that have the effect of restricting shoreline protection because such structures generally cause adverse impacts to coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. Shoreline protection devices such as revetments, seawalls, and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent beaches. Such a protective structure is often placed on public land rather than on the private property it is intended to protect, resulting in a physical loss of beach area formerly available to the general public. Shoreline protective

² This is considered to be a fairly conservative estimate given that easily removable development – which includes beach trails- are often analyzed using a low risk-aversion scenario.

devices can also prevent the natural inland migration of public lands (whether submerged lands, tidelands, or public state lands) in areas where they are not adjacent to adjudicated property lines. Because shoreline protection devices, such as seawalls, revetments, and groins, can create adverse impacts on coastal processes, Coastal Act Section 30253 specifically requires that new development minimize risk to life and property in areas of high flood hazards and prohibits development that could "... in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs," including the natural shoreline and seacliffs. However, Section 30235 of the Coastal Act recognizes that existing development may be protected by shoreline protective devices subject to certain conditions. This limitation is particularly important when considering new development, such as in this case, because if it is known that a new development may need shoreline protection in the future, it would be unlikely that such development could be found to be consistent with Section 30253 of the Coastal Act. Therefore, the Commission's action on this project must consider the effects of wave uprush, flooding, and storm events (with sea-level rise considerations) on public access and recreation.

The applicant is not proposing a shoreline protective device for this project at this time. Because a significant portion of the trail is being removed and replaced, and because the entire length of the trail would be almost double its current width, the trail would not be entitled to shoreline protection as an "existing structure" consistent with Section 30235. Although the trail could be entitled to protection as a coastal dependent use, there are alternative locations and alignments for the trail located much further inland that would not require shoreline protection. Therefore, the Commission would not likely approve a request for shoreline protection for the trail in its current location. Pursuant to **Special Condition 3**, the applicant shall submit a final adaptation to move the trail inland from its current location in the event that the current trail is threatened by coastal hazards, and would be required to obtain an amendment to this permit before doing so.

For the reasons stated above, the Commission also imposes **Special Condition 4** and **Special Condition 5**. Under **Special Condition 4**, the applicant acknowledges that the permitted development (a widened coastal trail) is not entitled to shoreline protection. Likewise, under **Special Condition 5**, the applicant assumes the risks of developing in an inherently hazardous area.

As proposed and conditioned, the project can be found to be consistent with Sections 30235 and 30253 with regard to coastal hazards.

Public Access

The existing path is heavily used by beach visitors to access and travel along the beach. Although the trail is necessary to facilitate pedestrian and bicycle traffic to and along the beach, the trail as it currently stands is proving to be insufficient to meet public access needs, which have been steadily increasing as more people visit Will Rogers State Beach. The path is frequently congested, and pedestrian/cyclist conflicts are all too common.

In response to this growing concern, the applicant has proposed to widen the existing bicycle path to 30 feet in order to provide separate thoroughfares for bicycles (and other fast-moving forms of transportation) and pedestrians. The widening would occur from the City of Los Angeles/Santa Monica border to the southern edge of Will Rogers Parking Lot 2. The alignment of the pedestrian/bicycle trail would not be changed; it would be expanded primarily on the seaward side, as indicated in **Exhibit 2**.

The County has provided a detailed response to explain why the proposed trail improvements cannot occur on the landward side of the trail. As **Exhibit 2** illustrates, a majority of the trail is already sited as far landward without encroaching onto existing development, including Pacific Coast Highway and accessory development associated with the Santa Monica Canyon outfall (including an existing retaining wall and concrete public beach access ramps). The portion of the trail directly adjacent to the Los Angeles/Santa Monica border cannot be expanded landward due to the presence of a vegetated dune located on state lands leased land that abuts the Santa Monica Beach club. In addition, the proposed landward expansion would align the Will Rogers portion of the trail to the Santa Monica portion of the trail. This would protect pedestrian and cyclist safety along the trail and would therefore protect lateral public access along the trail.

The Marvin Braude Bicycle trail – including the portion of the trail subject to this permit application- is designated as a part of the California Coastal Trail network (CCT). The CCT is a California Coastal Conservancy project to create a comprehensive network of trails along the entire stretch of the California coast in order to promote and enhance universal public access. The Commission has typically required improvements to and new development within the CCT to include signage to mark the CCT along the coast. Accordingly, the Commission imposes **Special Condition 2**, which requires the applicant to include signage to identify the Will Rogers State beach portion of the Marvin Braude Bicycle Trail as a part of the CCT.

As proposed and conditioned, the proposed trail alignment has been designed to protect public access to and along the beach to the best extent feasible and the project is consistent with the public access and recreation policies of the Coastal Act.

Marine Resources/Water Quality

Due to the project's location near coastal waters, it is necessary to ensure that construction activities will be carried out in a manner that will not adversely affect recreation, water quality, or marine resources. The potential adverse impacts to water quality and marine resources include discharges of contaminated runoff and sedimentation during construction and as a result of the pouring of concrete, as well as the use of heavy equipment (fuel and oil leaks).

In order to prevent adverse impacts to marine waters from construction activities, the Commission is imposing **Special Condition 6**. This condition requires specific mitigation measures to be implemented in order to ensure that water quality, biological productivity, and marine resources are protected as required by Sections 30230 and

30231 of the Coastal Act. The required best management practices include provisions to prevent discharges into the water during construction. Only as conditioned will the proposed project ensure the protection of marine resources and water quality as required under the Chapter 3 policies of the Coastal Act.

The proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Therefore, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

Environmental Resources

The proposed project is located along a sandy beach. As stated earlier, a portion of the trail directly adjacent to the Santa Monica Beach Club is in close proximity to a 0.27 acre vegetated dune. Commission staff received a biological assessment of the dune that was prepared by Glenn Lukos Associates on July 28, 2020 for an associated development project at the Santa Monica Beach Club (CDP Application No. 5-19-1212).

The biological assessment notes that the dune ranges from two to six feet in height, is located within a highly disturbed area adjacent to a heavily used bicycle path, and that the vegetated areas of the dune contain the following plants: Fig Marigold (*Carpobrotus edulis*), Ripgut Brome (*Bromus diandrus*), European Sea Rocket (*Cakile maritima*), Beach Burweed (*Ambrosia chamissonis*), and Beach Evening Primrose (*Chamissoniopsis cheiranthifolia*). The Fig Marigold and Ripgut Brome, both non-native and invasive species, make up the vast majority of the vegetation on the dune area, while Beach Burweed and Beach Evening Primrose- the only two native species within the dune area- make up only 3 percent of the total vegetation on the dune. Overall, the biological assessment did not identify any special-status flora or fauna within the dune. Furthermore, the biological assessment concludes that the subject dune is not likely part of the larger dune system that is present within the Pacific Palisades region. Commission ecological technical staff review of the biological assessment is ongoing. The Commission typically requires more protective pre-and post-construction policies when development is sited near dunes. Therefore, the Commission imposes **Special Condition 2**. This condition requires that avoidance measures be implemented for native dune vegetation and requires a physical demarcation of the limits of development work. Even if the dune is determined to be ESHA when it is analyzed further under Permit Application No. 5-19-1212, **Special Condition 2** would prevent impacts to the adjacent dune that would be inconsistent with Section 30240 regarding sensitive environmental resources. As conditioned by the Commission, the proposed project can be found to be consistent with the Coastal Act polices pertaining to environmental resources.

B. PUBLIC ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the

proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. MARINE RESOURCES AND WATER QUALITY

The proposed work will be occurring on, within, or adjacent to coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters. To reduce the potential for post construction impacts to water quality the Commission requires the continued use and maintenance of post construction BMPs. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

D. LOCAL COASTAL PROGRAM (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The City of Los Angeles has neither a certified LCP nor a certified Land Use Plan. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

SPECIAL CONDITIONS

The permit is granted subject to the following special conditions:

1. Submittal of a Final Adaptation Plan. The applicant shall submit a final adaptation plan for review and approval by the Executive Director that includes an alternate path alignment for the entire length of the trail approved pursuant to 5-19-0365 that is located inland of the current trail alignment in a non-hazardous location in case the trail is threatened or destroyed by coastal hazards (wave uprush, flooding, erosion, etc.). Improvements proposed to the relocated trail shall be designed to retain the minimum

width necessary for all public access uses and transportation modes that would occur on the beach trail. If the current trail is destroyed or reasonably threatened by flooding (particularly with 5.5 feet or more of sea level rise, as analyzed in the staff recommendation), the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

2. California Coastal Trail Signage. Upon acceptance of this permit, the applicant shall include signage that acknowledges the California Coastal Commission's role in providing public access at this location by including the agency name and logo. For any trail that is a component or segment of the California Coastal Trail, trail signage shall identify it as part of the California Coastal Trail and also include the California Coastal Trail logo.

3. Habitat and Sensitive Species Protection Measures during Project Activities.

A. Prior to any project activities, a qualified Resource Specialist shall survey the project site and identify with flags, stakes, or other markers all areas of existing native vegetation. Avoidance measures shall be implemented for native dune vegetation in areas where these species exist as a natural community and in areas where these species co-occur with non-native species.

B. The limits of development work shall also be clearly demarcated to identify the boundaries of the construction area and habitat area.

C. An appropriately trained biologist shall monitor all project activities for disturbance to sensitive species or habitat area. Based on field observations, the biologist shall advise the applicants regarding methods to minimize or avoid significant impacts, which could occur upon sensitive species or habitat areas. The biological monitor shall have the authority to stop work if any adverse impacts to sensitive species at the project site and/or within the project vicinity could result from continuation of the proposed development. The applicants shall not undertake any activity that would disturb sensitive species or habitat area unless specifically authorized and mitigated under this coastal development permit or unless an amendment to this coastal development permit for such disturbance has been obtained from the Coastal Commission.

4. Waiver of Rights to a Future Shoreline Protection.

A. By acceptance of this permit, the applicant acknowledges that the development authorized by this permit- including the widened portions of the existing Marvin Braude Bicycle Path- constitutes new development under the Coastal Act, and is not entitled to a shoreline protective device under Section 30235 of the Coastal Act. Thus, by acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.

B. By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that they are required to remove all or a portion of the development authorized by the permit, and restore the site, if:

(1) the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the path is currently and permanently unsafe for occupancy or use due to damage or destruction from waves, flooding, erosion, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for use without the use of shoreline protective devices;

(2) essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;

(3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or

(4) the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies.

In addition, the development approval does not permit further encroachment onto public trust lands, and any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain. Any future encroachment would also be subject to the State Lands Commission's (or California Department of State Parks) leasing approval.

5. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit, the applicant, on behalf of itself, and its successor and assigns, acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs and fees incurred in defense of such claims, expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).

6. Construction Responsibilities. By acceptance of this coastal development permit, the permittee agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:

- A.** No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion or dispersion.
- B.** Any and all demolition and construction material shall be removed from the site as soon as possible (within two days of completion of demolition/construction) and disposed of at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- C.** All trash generated by construction activities within the project area shall be disposed of at the end of each day, or sooner if possible.
- D.** All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.
- E.** Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters or onto the beach, and more than fifty feet away from a storm drain, open ditch or surface waters.
- F.** Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include but are not limited to: Silt fencing shall be installed between work areas and the water to prevent runoff/sediment transport into the ocean.
- G.** Construction vehicles operating at the project site shall be inspected daily to ensure there are no leaking fluids. If there are leaking fluids, the construction vehicles shall be serviced immediately. Equipment and machinery shall be serviced, maintained and washed only in confined areas specifically designed to control runoff and prevent discharges into the sea. Thinners, oils or solvents shall not be discharged into sanitary or storm sewer systems.
- H.** All construction equipment and materials shall be stored and managed in a manner to minimize the potential for discharge of pollutants. Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.
- I.** During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any bay, harbor, street or drainage unless specifically authorized by the California Regional Water Quality Control Board.
- J.** In the event that hydrocarbon-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances

Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.

7. Future Improvements. This permit is only for the development described in Coastal Development Permit No. 5-19-0365. Except as otherwise provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use of land, shall require an amendment to Permit No. 5-19-0365 from the Commission or shall require an additional coastal development permit from the Commission, unless the Executive Director determines no amendment or new CDP is legally required, or from the applicable certified local government.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing