

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
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January 11, 2016

Permit Application No.: 4-15-0390

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On October 9, 2015, the California Coastal Commission approved Coastal Development Permit No. 4-15-0390 requested by **Broad Beach Geologic Hazard Abatement District**, subject to the attached conditions, for development consisting of: **Authorization of an approximately 4,150 ft. long rock revetment and re-location of the downcoast approximately 1,600 linear feet of the as-built rock revetment further landward; implementation of a beach nourishment program involving deposition of 300,000 cu. yds. of sand on the beach from inland sand quarries during the first year, with major renourishments of up to approximately 300,000 cu. yds. of sand and interim renourishments of up to 75,000 cu. yds. of sand allowed when certain triggers are reached; periodic sand backpassing operations to occur no more than once per year, and dune habitat restoration,** as more specifically described in the application filed in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone at **30708 Broad Beach Road to 6526 Lechuza Point Road in the City of Malibu (Los Angeles County)**

If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. 4-15-0390, please contact the Coastal Program Analyst identified below.

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Sincerely,
Charles Lester
Executive Director



Deanna Christensen
Supervising Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

Date	Permittee
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Please sign and return one copy of this form to the Commission office at the above address.

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, then permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission and 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.

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SPECIAL CONDITIONS:

1. Final Revised Plans

A. *Prior to issuance of the Coastal Development Permit*, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of Final Revised Plans, prepared and stamped by a registered engineer. The Final Revised Plans shall demonstrate the following:

- (1) Final Revetment Plans. Final plans (plan view and cross-sections) for the proposed landward re-location and re-construction of the approximately 1,600 linear ft. downcoast end of the rock revetment (including all portions of the proposed rock revetment and sand bag wall between 30980 Broad Beach Road and 30760 Broad Beach Road). All portions of the relocated revetment shall be configured as a single contiguous structure without any gaps or breaks (including the property at 30822 Broad Beach Road) and shall generally utilize the same design as the existing, as-built revetment. One or more permanent surveyed benchmarks inland of the relocated revetment shall be installed and survey points along the inland-most top and seaward-most toe of the revetment shall be identified. Minor modifications to the revetment design to ensure structural stability may be implemented subject to the review and approval of the Executive Director. No portion of the revetment shall extend further upcoast than 31350 Broad Beach Road, nor further downcoast than 30760 Broad Beach Road.
- (2) Beach Nourishment/Beach Width. The total amount of beach/dune nourishment material for the initial nourishment event, and each separate renourishment event shall not exceed 300,000 cu. yds. of sand for each event. The footprint for beach nourishment/beach width shall be generally consistent with **Exhibit 7a**, which reflects that no beach nourishment shall occur upcoast of the property at 31380 Broad Beach Road.
- (3) Dune Restoration. The dune restoration and enhancement area proposed by the applicant shall be revised to comport with the boundaries generally shown on **Exhibit 8b** and to be consistent with all provisions of the Revised Final Dune Habitat Restoration and Enhancement Plan required pursuant to Special Condition 5.
- (4) Public Access. Depict a 10 ft. wide public pedestrian path (sand surface only) located immediately landward of the entire length of the approved rock revetment, that may be available for public use when there are no areas of dry beach seaward of the revetment available for pass and repass, consistent with the terms and conditions of Special Condition 14 below. In addition, access stairways (for the provision of both public and private vertical access) shall be shown extending from the 10 ft. wide public pedestrian path to the toe of the rock revetment below. The number and location of the access stairways shall generally align with the shared private beach access paths allowed on site consistent with Special Condition 5, Part 5. All such access stairways shall be designed and constructed by reconfiguring existing stones within the revetment to form steps. No handrails shall be installed.

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B. The Permittee shall undertake the development in accordance with the final approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Development Authorization Period and Reporting Requirement

- A. This Coastal Development Permit authorizes the approved development on a temporary basis only for a period of ten (10) years from the date of Commission action (i.e., until October 9, 2025). After such time, the authorization for continuation and/or retention of any development approved as part of this permit (including, but not limited to, the rock revetment and beach re-nourishment/backpassing activities) shall cease, unless re-authorized by the Commission pursuant to a permit amendment, such as provided in Part B of this condition.
- B. If the Permittee wishes to retain the revetment beyond the ten-year term for which this permit provides authority and to continue the nourishment program, then no later than six months prior to the end of that ten year term, the Permittee or successor in interest shall submit a complete coastal development permit amendment application for the re-authorization of the beach nourishment program and to retain the rock revetment for an additional ten (10) year term to protect existing residential development at risk from wave hazards and tidal action. The amendment application shall include the results of the required annual and five year biological and physical beach monitoring reports and the septic conversion implementation study, required pursuant to Special Conditions 4, 5, 6, 7 & 16 of this permit, in order to evaluate the effectiveness and impacts of the project; address changed circumstances and/or unanticipated impacts; consider modifications to the location and design of the sand fill area; and consider additional mitigation measures necessary to compensate for any adverse impacts to marine and/or upland coastal resources/habitats resulting from the continued retention of the rock revetment and implementation of the Adaptive Beach Nourishment and Management Program. Failure to either (1) obtain a permit amendment authorizing the Permittee to retain the rock revetment and continue the Adaptive Beach Nourishment and Management Program for an additional term or (2) remove the revetment and cease the program, shall constitute a violation of the terms and conditions of this coastal development permit, unless the Executive Director grants additional time for good cause.
- C. Five (5) years from the date of issuance of this coastal development permit, the applicant shall submit a report to the Executive Director, documenting the status of the project, including the Beach Nourishment and Management Program. The report shall summarize the results and findings of the annual physical and biological monitoring reports and the status of septic conversion implementation as required pursuant to Special Conditions 4, 5, 6, 7 & 16. Should the monitoring reports reveal any unanticipated significant adverse resource/ habitat or public access impacts not addressed in the initial Commission authorization, and/or that the Beach Nourishment and Management Program is not maintaining a thirty foot wide or wider sandy beach fronting the approved revetment

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pursuant to the beach replenishment triggers pursuant to Special Condition 4(B), the Executive Director may require the submittal of a permit amendment application for the review and approval by the Commission to address and evaluate mitigation measures to compensate for any unanticipated adverse resource/habitat impacts, public access impacts, and/or require any mid-course corrections or adjustments to the Beach Nourishment and Management Program. Significant impacts shall be understood to be greater than de minimis increases over previously identified impacts based on the approved monitoring program. Failure to submit a permit amendment application in response to the Executive Director's direction, pursuant to this paragraph, shall constitute a violation of the terms and conditions of this coastal development permit.

- D. The coastal development permit amendment application submitted by the permittee for an additional ten (10) year term, pursuant to Part B of this special condition, shall include a complete evaluation of all feasible alternatives to the retention of the rock revetment in its current location should beach re-nourishment measures outlined in Special Condition 4(B) fail to consistently maintain at least a 30 foot wide sandy beach over the 10 year period. Project alternatives evaluated shall include, but not be limited to, landward relocation of part or all of the revetment and removal of part or all of the revetment; construction of an alternative shoreline protective structure in a more landward location; status of removal of the existing septic systems and connection to a new or upgraded package sewage treatment plant based on the septic conversion implementation study required pursuant to Special Condition 16; and options for removal and/or landward relocation of existing private residential development. The information concerning these alternatives must be sufficiently detailed to enable the Coastal Commission to evaluate the feasibility of each alternative for addressing site shoreline protection, public access, and sensitive resource issues under the Coastal Act and the City of Malibu Local Coastal Program.

3. Implementation of Project Improvements & Removal of Unpermitted Development

- A. The applicant shall implement and complete the landward re-location and re-construction of the approximately 1,600 linear ft. downcoast end of the rock revetment (including all portions of the rock revetment between 30980 Broad Beach Road and 30760 Broad Beach Road) within 1 year of the issuance of this permit. The Executive Director may grant additional time for good cause. All sandbags that were included in the construction of this portion of the revetment shall be removed from the beach and are not to be used in the reconstruction of the rock revetment, which shall be composed entirely of rock.
- B. The applicant shall construct the access stairways (for the provision of both public and private access) consistent with the requirements of Special Condition 1.A.4 and Special Condition 5.A.5 concurrent with the re-location and re-construction of the approximately 1,600 linear ft. downcoast end of the rock revetment required pursuant to Part A of this condition. The Executive Director may grant additional time for good cause.
- C. The applicant shall remove and dispose of, in accordance with all applicable laws, all unpermitted private stairways (approximately 40), sandbags and remnants of all materials such as plastic and fiber netting that made up the sand bags located both seaward and landward of the existing revetment, unpermitted wooden decks located atop or adjacent to the

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revetment, and “no trespassing” or “private property” signs or other signs that discourage or mislead the public from using public areas on and adjacent to the approved rock revetment concurrent with or prior to the re-location and re-construction of the approximately 1,600 linear ft. downcoast end of the rock revetment required pursuant to Part A of this condition, unless additional time is granted by the Executive Director for good cause.

4. Final Adaptive Management and Monitoring Plan

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a Final Adaptive Management and Monitoring Plan. The final plan shall be prepared by a qualified engineer with experience in coastal engineering and incorporate all provisions of the Final Backpassing Guidelines (as presented in the Project Description 12/21/12), except that it shall be consistent with the following revisions:

A. Backpassing Provisions and Triggers

Sand Back Passing activities shall be implemented consistent with the following provisions:

- (1) *Limits of Back Passing*: Source and receiver locations shall be generally identified based upon the approved nourishment limits (as identified in Special Condition 1).
- (2) *Methods of Backpassing*: Equipment for backpassing shall be identified. Mechanical equipment shall be minimized, and limited to the use of scrapers, or bulldozers.
- (3) *Backpassing Transport Routes*: The general routes that will be used for taking sand from the source site to the receiver sites shall be identified.
- (4) *Backpassing Triggers*: Backpassing shall be undertaken at most once per year, and only if the recorded dry beach berm width at Profile 411 is 50 feet or less for three (3) consecutive months.
- (5) *Limits on Source Sites for Backpassing Sand*: Source areas shall extend no further west than Profile 410, no further east than the limits of the approved nourishment area (as identified by Special Condition #1), at least 10 feet seaward of the dune toe and no further seaward than the wetted bound. No more than 7 feet of dry sand, by depth shall be taken from any location, and the maximum backpassing volume shall be 25,000 cubic yards per backpassing event. *Reporting*: Within 30 days of each backpassing event, the Permittee shall provide the planning staff of the California Coastal Commission’s South Central Coast District Office with a written summary of the backpassing event, including a map or aerial photograph that shows both the scraped areas and the placement areas, information on the surface areas and depths of the scraping and the volumes of sand removed, areas and depths of sand placed and volumes of sand placed. If sand is placed on a dune, the method of placement shall be described.
- (6) *Backpassing Evaluation*: After three backpassing events, the Permittee shall prepare a short evaluation report on the effectiveness of the backpassing and providing, if necessary, recommendations for revisions to the Backpassing Plan. No changes to the Backpassing program shall be implemented without written concurrence from the Executive Director.

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B. Small-scale Interim Renourishment or Major Renourishment Triggers

(1) *Small-scale Interim Renourishment*: If the dry beach width near Profile 411 is narrower than 30 feet for 6 consecutive months, as recorded by two (2) consecutive full beach profiles, AND either there is insufficient sand at the backpass source location to provide 10,000 cubic yards of backpassing sand or backpassing is not an available option for any other reason (for example because a prior backpassing event occurred within the last year, so it is prohibited by section A.(4) of this condition), a small-scale interim renourishment event may be proposed. An interim renourishment plan, adding no more than 75,000 cubic yards of new sand may be proposed (no more than once per year) and small-scale nourishment shall be initiated in a timely manner, such that the deficit conditions shall not persist for more than 6 months following the initial trigger period, or as soon after 6 months as possible, given restrictions on beach disruptions during the summer season (between Memorial Day and Labor Day).

(2) *Major Renourishment*: If (a) the dry beach width near Profile 411 is narrower than 30 feet for 12 consecutive months, as recorded by three (3) consecutive full beach profiles; (b) either there is insufficient sand at the backpass source location to provide 10,000 cubic yards of backpassing sand or backpassing is not an available option for any other reason (for example because a prior backpassing event occurred within the last year, so it is prohibited by section A.(4) of this condition); and (c) an interim renourishment has occurred but failed to remedy the situation, then a major renourishment event, adding an additional 300,000 cubic yards of new sand shall be proposed and nourishment shall be initiated within the approved project reach in a time manner, such that the deficit conditions shall not persist for more than 4 months following the initial trigger period.

(3) *Renourishment Plan*: For either small-scale interim renourishment or major renourishment within the project reach, the permittee shall provide a renourishment plan, for review and approval of the Executive Director that shall include the following:

- a. Source and quality of renourishment sand,
- b. Results from sediment sampling and testing, following the requirements of Special Condition 8.

C. Monitoring and Reporting Requirements

The Final Adaptive Management Plan shall be revised to acknowledge the prior baseline beach monitoring study conducted by the applicant's consulting coastal engineer (which has been in progress for several years now) and shall be continued throughout the duration of the ten year term of this permit, as specified below. In addition, the Plan shall also provide that the applicant shall conduct monitoring to provide an annual assessment of the shoreline morphology, beach profile, and beach width consistent with the following provisions:

- (1) *Periodic Beach Profile Surveys*: A licensed surveyor or engineer shall survey full beach profiles for each of the 16 identified beach profile transect lines at Broad Beach and Zuma Beach (412.5, 412.3, 412, 411.9, 411.7, 411, 410, 409, 408, 406, 404, 402, 400,

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- 398, 396, and 394, as shown on **Exhibit 12**) on a semi-annual basis each spring and fall season for one year prior to the commencement of development and for a period of 10 years after initial construction. Each the beach profile transects shall be established with a permanent location that can be identified by Baseline Survey Markers and GPS coordinates. The landward limit of the full beach profile shall extend at least 10 feet inland of the inlandmost position of the revetment, and the seaward limit of the full beach profile shall be out to the depth of closure (approximately -40 ft., MSL).
- (2) *Beach Berm Width Measurements*: Beach berm width measurements will be performed by the applicant using a tape measure and a differentially corrected digital global positioning system (GPS) unit to record the beach width on a monthly basis for at least one year prior to the commencement of development and for a period of 10 years after initial construction. Measurements will occur from the Baseline Survey Marker out to the wetted bound (seaward limit of the dry beach area) and shall be performed at the same locations each month and in essentially the same location as the beach profile surveys (412, 411, 410, 409, and 408, or equivalent locations identifiable through fixed structures such as access stairs, offsets from storm drains, etc.). The beach berm width measurements shall be recorded each month and results shall be included in the annual post-construction reporting. The date, time and tidal conditions for all measurements shall be recorded and signed by the person(s) who has undertaken the measurements.
 - (3) *Wetted Bound Surveys*: The location of the wetted bound, from Point Lechuza to the eastern limit of the revetment or nourishment, whichever is farther east, shall be recorded monthly, at the same time as the beach berm width measurements and plots of each wetter bound survey shall be prepared and included in the annual post-construction reporting. The date, time and tidal conditions for all wetted bound plots shall be recorded and signed by the person(s) who has undertaken the survey.
 - (4) *Trancas Estuary Mouth Changes*: The applicant shall conduct visual surveys of the Trancas estuary mouth on a monthly basis for the purpose of recording changes in the estuary system and morphology of the estuary mouth.
 - (5) *Aerial Photography*: Aerial photographs of the subject reach (covering, at a minimum, the entire project reach and all 9 transect locations shall be taken concurrent with the fall season beach profile on an annual basis to provide a continuous assessment of the shoreline for one year prior to the commencement of development and for a period of 10 years after initial construction.
 - (6) *Post-Construction Reporting Requirements*: The applicant shall submit an annual monitoring report, for the review and approval of the Executive Director, for a period of 10 years after initial construction is complete. The monitoring report shall be submitted on an annual basis and shall include all survey data (full beach profile surveys, beach berm width measurements, wetted bound surveys, Trancas estuary mouth changes, and aerial photographs) and a written report prepared by a qualified coastal engineer indicating the results of the shoreline profile and beach width monitoring program. The monitoring report shall include conclusions regarding the level of success of the project, a detailed analysis of any change in shoreline position, increase or decrease in beach widths and footprint of dune systems within the project reach, details on any nourishment efforts

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undertaken during the year with the volume and placement location specified, and any back passing operations that took place. More specifically, the report shall include, but not be limited to, the following:

- Quantification of the volumetric change in the beach and dune for each survey period, using the pre-project condition (2014 or 2015) as the baseline.
- Analysis of the seasonal and interannual changes in width and length of dry beach, subaerial and nearshore slope, offshore extent of nourished toe for profiles within the nourishment area, and overall volume of sand in the profile; changes in dune profile; and, estimates of the rate and extent of transport of material up- and down-coast from the beach nourishment receiver site.
- Comparison of the actual changes to the shoreline in relation to the predicted changes that were anticipated based on the results of the Pre-construction numerical and physical modeling.
- Analysis of the expected time period over which the beach benefits related to the initial nourishment volume can be identified as distinct from background conditions; and qualify any abnormal wave and current conditions that could account for changes to the beach outside what was anticipated.
- Provision of cumulative data detailing the annual quantity and placement of material, including interaction of the replenishment project with other beach replenishment projects or other shoreline projects that occur in the project area or in the same littoral cell.
- Utilization of aerial photographs, to the extent feasible, to prepare a summary of beach width and dune profile changes.
- Conclusions regarding the level of success and any adverse effects, including any observed beach/dune erosion and any changes in the frequency that the Trancas Estuary mouth opens and closes and/or changes to the duration the estuary mouth remains open/closed. The report shall include a brief history of all previous years' monitoring results to track changes in shoreline, dunes, and estuary mouth conditions.

5. Final Revised Dune Habitat Restoration and Monitoring Program

Prior to issuance of the Coastal Development Permit, the Permittee shall submit, for the review and approval of the Executive Director, two (2) copies of a Final Revised Dune Habitat Restoration and Enhancement Program. The Program shall provide for the restoration and enhancement of coastal strand and southern foredune habitat on-site, at a minimum ratio of 3:1 (restored area to impacted area), as mitigation for 3.62 acres of impacts to existing dune habitat that resulted from the installation of the as-built sandbag seawall, as-built rock revetment, and relocated rock revetment as required pursuant to Special Condition 1(A). The Program shall be prepared by a qualified biologist(s), ecologist(s), or resource specialist(s), hereafter, referred to as the environmental resource specialist(s), with experience in the field of dune restoration, beach ecology, and marine biology. The permittee shall provide the environmental resource specialist's qualifications, for the

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review and approval of the Executive Director, prior to Program development. The Program shall be in substantial conformance with the "Conceptual Foredune Creation and Enhancement Plan," by WRA Environmental Consultants, dated October 15, 2013, but shall be revised to provide for the following requirements:

A. Dune Habitat Restoration and Enhancement Plan

- (1) *Restoration/Enhancement Area Footprint.* The dune habitat restoration/enhancement area on-site shall generally include a footprint that extends from the property at 31350 Broad Beach Road to the property at 30708 Broad Beach Road, and that begins as far landward as feasible (at a stringline of approved development across the subject properties) and extends seaward to the expected maximum wave uprush limit. The stringline of approved development that is to be the landward limit of the dune restoration/enhancement area shall be generally located at the seaward edge of any legally existing residential structures, patios/decks. Sandy beach areas where existing septic leach fields are located seaward of the stringline shall be revegetated with native dune plant species and mounding techniques using minor amounts of sand fill material without the use of heavy equipment. The stringline for the landward limit of dune restoration shall be configured in a manner that maintains a relatively straight or gently curving line as generally depicted in **Exhibit 8b**. Short segments of the landward limit of the dune restoration stringline may be located further seaward if necessary to avoid creating sharp angles in the configuration of the dune restoration area. Restoration/enhancement of the landwardmost areas within the above described dune habitat restoration/enhancement area shall be prioritized.
- (2) *Dune Specifications.* The dune habitat restoration/enhancement area shall be designed and contoured based on natural dune morphology (using historical records of the area and the most proximal reference site(s)). The footprint and the number of dune ridges shall increase from west (upcoast) to east (downcoast) across the restoration area. For instance, there shall be one dune ridge at the west (upcoast) end of the restoration area, transitioning to two and, if adequate area is available, three ridges, at the east (downcoast) end. The restored and enhanced dune ridges shall be oriented perpendicular to the prevailing wind direction (estimated to be WNW or about 60 degrees west of north) with dune faces that have a slope no steeper than 3:1. The Plan shall include a grading plan that includes a detailed description of dune restoration and enhancement (dune creation) timing, phasing, daily schedule aspirations, methods including equipment to be used, staging area location(s), and relationship to the beach nourishment program. The plan must include an explanation of how the grading activities meet these requirements. For the portion of the restoration/enhancement area between the top of revetment and the stringline of approved development pursuant to Subsection 1 above, restoration shall be limited to minor mounding, removal of non-natives and invasive plant species, and planting of native plant species (without the use of significant grading or sand placement) where existing septic leach fields are located.

The dune habitat restoration/enhancement plan design shall include Best Management Practices to maximize the success of restoring and enhancing natural dune system

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physical and biological processes and functions. Discontinuous sand fencing that is placed perpendicular to the prevailing wind direction shall be temporarily employed to facilitate establishment of dune hummocks. In addition to sand fencing, the design shall include strategic placement of native dune vegetation for dune hummock establishment. Temporary sand fencing and strategic planting, rather than motorized equipment, shall be employed to establish a natural pattern of dune hummocks. Drainage/runoff control measures and creation of dune swales (low areas between dune ridges) shall also be used to function as natural drainage devices within the dune system.

- (3) *Dune Sand Source and Composition.* Sand source and composition within the dune habitat restoration/enhancement area shall be consistent with the specifications of Special Condition 8 (Sediment Analysis and Monitoring). Existing native beach sand in the project area that is excavated for relocation of any portion of the as-built emergency rock revetment shall be temporarily stockpiled during beach nourishment and construction activities and then applied as a top layer on the landwardmost portions of the restored dunes to facilitate successful reestablishment of dune vegetation on site. Prior to application of the native sand on the restored dunes, non-native and invasive plant species shall be removed to the maximum extent feasible.
- (4) *Dune Planting.* The dune habitat restoration/enhancement plan shall include a planting plan using native coastal strand and southern foredune plant species (plant palette) including the number of container plants and amount (lbs.) of seeds, source of plant material, provision for collection, storage, propagation and use of existing native plants, and plant installation methods. The plant palette shall be made up exclusively of native plants appropriate to the habitats and region, grown from seeds or vegetative materials obtained from the site or from an appropriate nearby beach location to maintain the genetic integrity of the area. No horticultural varieties, and no coastal bluff or back dune species shall be used (e.g. *Artemisia californica*, *Ericameria ericoides*, *Eriogonum parvifolium*, *Perritoma arborea*, *Rhus intergrifolia*). The plan shall also include an exhibit that shows the planned locations, numbers, and spacing of the individual plant species, i.e. that depicts their distribution and abundance across the restoration area. The plan shall include sufficient planting plan technical detail including a description of planned site preparation, method and location of exotic species removal (all non-native plant material shall be removed from the restoration/enhancement area including *Carpobrotus edulis*, highway iceplant), timing of planting, temporary irrigation plans if necessary, and maintenance timing and techniques. The abundance, distribution, and percent cover of native coastal strand and southern foredune plant species shall be based on historical records, the literature, and/or the most proximal reference site(s). The planting plan shall incorporate the recommendations regarding soil preparation, planting palettes, and revegetation techniques that are contained in the "Analysis of Dune Restoration associated with the Broad Beach Restoration Project," by Coastal Restoration Consultants, Inc. dated September 23, 2015.
- (5) *Access Paths and Fencing.* The dune habitat restoration/enhancement plan shall incorporate a maximum of one shared private beach access path through the dunes (natural sand path only that is delineated by a two-foot high symbolic post and cable/rope type fence) for every two residences adjacent to the restoration area both of which have

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- less than a sixty foot frontage, and one non-shared private beach access path through the dunes (natural sand path only that is delineated by a two-foot high symbolic post and cable/rope type fence) for every residence with a frontage of sixty feet or more. The private beach access paths shall extend through the restored dune system out to the shore from the private properties and the paths shall not exceed 3 feet in width, with the exception that the Malibu West Beach Club located at 30756 Broad Beach Road may maintain its own separate 10 ft. wide beach access path. Further, the dune restoration and enhancement area shall incorporate a 10 foot wide public pedestrian path (natural sand path that is only available for public use when there are no areas of dry beach seaward of the revetment available for pass and repass, consistent with the terms and conditions of Special Condition 14 below) running generally parallel to the shore and located immediately landward of the entire length of the approved rock revetment. The public pedestrian path shall be bordered by symbolic post and cable/rope fencing to maintain dune processes to the greatest extent possible (e.g. water, sand, plant, and animal movement/dispersal). No fencing, other than necessary sand fencing as provided in subpart 2 above, shall be placed seaward of the revetment.
- (6) *Signage.* Signs shall be installed and maintained in conspicuous locations along the approved accessways adjacent to the restoration/enhancement area (excluding the public pedestrian path immediately landward of the revetment, signage for which is addressed by Special Condition 15), to notify the public and residents that the area is a sensitive habitat restoration area and to keep out of the dune restoration areas. The signs shall indicate “Habitat Restoration In Progress: Please Keep Out of Dune Restoration Area”, or alternative language that is substantially similar. Similar signage shall be installed at or near the seaward most limit of dune vegetation (“Vegetation Line”) once dune restoration has commenced, but that signage shall indicate that if the wet sand ever comes to within 25 feet of the Vegetation Line, the area available for public access will extend 25 feet inland from the wet sand, even though that will encroach into the dune habitat restoration/enhancement area. Interpretive signage shall also be placed within or adjacent to the two Los Angeles County vertical public accessways generally describing the approved project, including identification of sensitive habitats in the area; the public access features/requirements incorporated into the project and the role of various Local/State/Federal agencies and stakeholder groups who contributed to the formation of the project. The signage shall blend in with the surrounding natural environment and not detract from the character of the area, and with the exception of signage approved pursuant to Special Condition 15, in no instance shall signs be posted which read “*Private Beach*” or “*Private Property.*” The location, size, design, and content of all signs to be installed shall be specified in the plan, for the review and approval of the Executive Director. Signs that become subject to erosion shall be relocated or removed.
- (7) *Maintenance.* The plan shall include provisions for on-going maintenance and/or management of the dune habitat restoration/enhancement area for the term of this coastal development permit. At a minimum, semi-annual maintenance and/or management activities shall include, as necessary, debris removal, periodic weeding of invasive and non-native vegetation and replacement planting consistent with the approved plan.

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- (8) *Implementation.* The approved dune habitat restoration/enhancement plan shall be implemented within 90 days of the completion of initial beach nourishment activities. The Executive Director may grant additional time for good cause.

B. Monitoring Program

A monitoring program shall be designed and implemented to provide data that will guide the dune habitat and enhancement plan and direct any adaptive management actions that will increase the likelihood that the enhancement and restoration will be successful. The monitoring program shall provide, at a minimum, for the following:

- (1) *Performance Standards:* Determination of annual and final performance standards selected based on a reference site (s) and/or the literature. The performance standards shall relate logically to the goals of the dune habitat restoration and enhancement plan and include standards for special status species, species diversity, vegetative cover, and approximate dispersion patterns of major species. Native plant cover shall not exceed that found in southern California coastal strand and southern foredune natural habitats. The rationale for the selection of each performance standard must be explained.
- (2) *Procedure for Judging Success:* Detailed description of the qualitative and quantitative sampling methods and statistics intended to be used to monitor dune habitat restoration and enhancement shall be provided.
- (3) *Initial Monitoring Report:* Submission of a written report, prepared by a qualified environmental resource specialist, upon completion of the initial dune habitat restoration and enhancement work, for the review and approval of the Executive Director. The report shall document completion of the initial work and include photographs taken from pre-designated sites (annotated to a copy of the site plans).
- (4) *Interim Monitoring Reports:* After initial dune habitat restoration and enhancement work is completed, the applicant shall submit, by no later than December 31st each year, for the review and approval of the Executive Director, annual monitoring reports prepared by a qualified environmental resource specialist indicating the progress and relative success or failure of the dune habitat restoration and enhancement. These reports shall also include recommendations for modifications or new approaches that would help the project meet the performance standards. These report shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the dune habitat restoration and enhancement progress at each of the sites. Each report shall be cumulative and shall summarize all previous results. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the dune habitat restoration and enhancement project in relation to the interim and final performance standards.
- (5) *Final Report:* Prior to the date that authorization for the approved development expires, a final dune habitat restoration and enhancement report shall be submitted for the review and approval of the Executive Director. If the report indicates that the dune habitat restoration

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and enhancement project has, in part, or in whole, been unsuccessful, based on the specified performance standards, the applicant(s) shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program that did not meet the approved performance standard (s), and shall implement the measures that must be taken to reach the specified performance standard. The revised or supplemental program shall be processed as an amendment to this permit

C. Dune Habitat Restoration and Enhancement Area Open Space Restrictions

No development, as defined in Section 30106 of the Coastal Act, shall occur within the final approved Dune Habitat Restoration and Enhancement area pursuant to Special Condition 5 of this permit except as otherwise specified pursuant to this condition. It is recognized that the seaward limit of the dune system and dune vegetation within the approved restoration area is ambulatory in nature and that, therefore, the seaward extent of the area subject to this open space restriction is also ambulatory in nature. This restriction shall in no way be interpreted to limit or restrict the area of beach available for lateral or vertical public access pursuant to Special Conditions 13 and 14 of this permit. Development allowed within Dune Habitat Restoration and Enhancement area shall be limited to:

- (1) Dune habitat restoration undertaken in accordance with the final approved dune habitat restoration and enhancement plan approved pursuant to Special Condition 5.
- (2) Maintenance of existing drainage improvements
- (3) Construction and maintenance of the approved rock revetment, beach nourishment/renourishment (including backpassing activities), drainage and polluted runoff control activities, public and private access paths, and other public access improvements (including fencing and signage) required and approved pursuant to Special Conditions 1, 3, and 13-15 of this permit.

Prior to issuance of the Coastal Development Permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

D. The Permittee shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

6. Long-Term Marine Resources Monitoring, Reporting, and Mitigation plan

- A.** *Prior to issuance of the Coastal Development Permit*, the applicant shall submit to the Executive Director, for review and written approval, a final "Marine Habitat Monitoring and Mitigation Plan" for biological resources including subtidal rocky habitats (e.g. kelp forest, rocky reef, surfgrass), subtidal habitats comprised of unconsolidated sediment (e.g. eelgrass, sand dollar beds, pismo clam beds), rocky intertidal habitats (bedrock, boulders, cobble,

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surfgrass) and supralittoral and intertidal sandy beach habitats. The monitoring and mitigation plan shall provide an overall framework to guide monitoring of these marine habitats in and immediately adjacent to the project footprint as well as marine habitat reference sites, and provide mitigation options for potential impacts to subtidal and intertidal marine habitats. The monitoring and mitigation plan shall be developed in consultation with state and federal agencies including the California Department of Fish and Wildlife, State Water Resources Control Board, California State Lands Commission, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Army Corp of Engineers, and the Environmental Protection Agency. A Science Advisory Panel (SAP) will be established to oversee marine habitat monitoring and any required mitigation. The SAP will review and guide development of the marine habitat monitoring and mitigation plan and advise the Executive Director regarding final plan approval.

- B. **Science Advisory Panel:** An expert panel consisting of a minimum of three marine scientists with expertise on nearshore habitats, including at least one member with expertise in experimental design and biostatistics, shall be established by the Commission. The panel shall be paid by the applicant through the Commission. The Science Advisory Panel (SAP) shall review and guide development of the final marine habitat monitoring and mitigation plan including the selection of reference sites, sampling methodology, analytical techniques, criteria for determination of adverse impacts, and mitigation options for the various marine habitats. The SAP shall also review the monitoring results and annual reports as they come in and advise the Executive Director of the Coastal Commission (and consult with State Lands Commission staff) regarding project status and their conclusions and recommendations for potential adaptive management actions. If marine habitat monitoring demonstrates that there have been adverse impacts to one or more marine habitats, the SAP shall review and guide development of specific habitat mitigation and monitoring plans.
- C. **Science Advisory Panel Administrative Structure:** Costs for participation of the SAP shall include travel, per diem, meeting time, and reasonable preparation time. The amount of funding will be based on a SAP budget prepared by the Executive Director in consultation with the applicant. The final SAP budget and funding shall be approved by the Executive Director and applicant prior to issuance of the Coastal Development Permit. In the event that agreement on a SAP budget and work program cannot be reached between the Executive Director and the applicant, the matter will be brought before the Commission for a final resolution. Total costs for such advisory panel shall not exceed \$180,000 per year adjusted annually by any increase in the consumer price index applicable to California.
- D. **Marine Habitat Monitoring Plan:** The marine habitat monitoring plan shall describe the sampling methodology, analytical techniques, and criteria for determining whether the implementation of the approved project has adverse impacts upon the respective marine habitats and shall include, at a minimum, the following:

(1) *Existing Conditions.* The Plan shall include a description and historical review of the marine resources located within the project area including subtidal rocky habitats (e.g., kelp forest, rocky reef, surfgrass), subtidal habitats comprised of unconsolidated sediment (e.g.,

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eelgrass, sand dollar beds), rocky intertidal habitats (Lechuza Point and boulder field) and sandy beach habitats in the vicinity of the beach replenishment project. The historical review must include a summary of past quantitative sampling and survey work (e.g. yearly kelp canopy areal extent data from 1984 to present, and Partnership for Interdisciplinary Studies of Coastal Oceans, State Water Resources Control Board Areas of Special Biological Significance, Marine Protected Area Monitoring Enterprise, and Multi-Agency Rocky Intertidal Network survey work) conducted on these habitats in order to document trends in species composition, habitat areal extent, and temporal changes for comparison with the post-project marine habitat monitoring findings.

(2) *Monitoring Objectives.* The monitoring objectives must include:

- a. Fine scale mapping of the marine habitats listed in section A above,
- b. Identification of any adverse impacts to the sandy beach ecosystem resulting from sand replenishment with source sand that does not match existing beach sand,
- c. Identification of direct or indirect adverse impacts to subtidal or intertidal habitats resulting from the proposed project,
- d. Identification of likely causes of any documented adverse impacts (burial, scouring, turbidity, sand grain size, etc.),
- e. Recommendations for adaptive management (e.g., future sand replenishment grain size adjustments, volume of future sand replenishment, sand placement adjustments) to avoid continuing adverse impacts, if adverse impacts are detected.

(3) *Monitoring Design.* Monitoring must be divided into two distinct phases utilizing the same monitoring design:

- a. Spring and fall pre-construction monitoring initiated one year prior to project construction. If two seasons of pre-construction monitoring are not feasible, pre-construction spring monitoring must be conducted. In addition, existing data from other programs (e.g., PISCO) may be used if deemed appropriate by the SAP. The purpose of pre-construction monitoring is to establish pre-project ecological (physical and biological) baseline conditions.
- b. Post-construction monitoring for 10 years (life of the permit) after construction is complete. The highly dynamic nature of the nearshore marine ecosystem and the potential for one or more marine habitats to be adversely impacted by the project must be considered in determining the frequency of monitoring (i.e. the frequency of the respective methods employed for monitoring).

(4) *Monitoring Methods.* The plan must include monitoring methods and a schedule for their execution with the intention of meeting the monitoring objectives; specifically, methods to monitor for and quantify potential direct and indirect adverse impacts upon one or more of the marine habitats listed in section A above. The applicant shall consider using the following methods in the final "Marine Habitat Monitoring and Mitigation Plan". The monitoring methods and schedule shall be developed in close consultation with the SAP for the review and approval of the Executive Director.

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a. Remote Sensing. Remote sensing techniques shall be employed to map rocky subtidal (with and without kelp) and rocky intertidal (with and without surfgrass) habitats in the project area and a minimum of two reference site outside the influence of the project area with the highest accuracy possible.

i. Multi-Spectral Aerial Surveys

Multi-spectral aerial surveys, similar to that employed by the applicant in July 2014, using an airplane fitted with specialized camera equipment designed to capture imagery within a specific array of spectral bands optimized to discern coastal marine habitats including kelp forest, understory canopy algae, eelgrass, and surfgrass. Survey results shall be groundtruthed.

ii. Multi-beam and Sidescan Sonar

Multi-beam and sidescan sonar surveys, similar to that conducted by the applicant in May 2014, to distinguish surficial features and to map nearshore marine benthic habitat types.

b. Subtidal and Intertidal Field Monitoring. The subtidal and intertidal monitoring methods employed must be capable of discriminating between habitats influenced by sand inundation and habitats rarely or never influenced by sand inundation, the length of time respective habitats have been inundated with sand, and the sand source (natural or project derived). The subtidal marine habitats that must be monitored are rocky bottom (with and without kelp) and unconsolidated substrates (with and without eelgrass). The intertidal habitats that must be monitored are Lechuza Point and the boulder field east of Lechuza Point and the sandy beach. A minimum of two reference sites for each of the above habitat types must be monitored. The reference sites should be as close as possible to the potential impact area within an area outside the project's influence.

The marine habitat monitoring locations in the immediate project area must be established based on the project footprint and model-predicted sedimentation patterns, after consultation with the applicant, resource agencies, and the SAP. Reference site locations must be based on proximity and similarity to the respective marine habitats in the project area, after consultation with the applicant, resource agencies, and the SAP. Eelgrass mapping must be in substantial conformance with NOAA's California Eelgrass Mitigation Policy and Implementing Guidelines published in October 2014.

In order to assess whether the macroinvertebrate assemblage that colonizes Broad Beach following sand replenishment is what would be there but for on-going disturbance, a minimum of two undisturbed beaches within the Malibu littoral cell, as well as the section of Broad Beach in the project footprint, must be monitored. The undisturbed beaches must be chosen based on having sand characteristics as similar as possible to the existing Broad Beach sand (well sorted, $D_{50} = 0.25$), having similar geomorphology (intermediate dissipative beaches) that face in the same general direction, and having the same general wave regime. In addition to these beaches, the

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section of Broad Beach west of the replenishment project and Zuma Beach east of the replenishment project must be monitored.

The beach monitoring methods must be capable of determining; 1) whether the portion of Broad Beach covered by quarry sand develops a sandy beach macroinvertebrate fauna similar to the reference beaches, and, 2) whether the project adversely impacts the beach ecosystem west and east of the project. The beach monitoring methods must be designed to identify approximately 80% of the organisms present; in order to capture this percentage of the community, approximately 3 square meters of surface area must be surveyed (Schlacher et al. 2008). In order to compare results to past surveys, the beach sampling must employ 10 cm diameter by 20 cm deep cores and sieve the samples using a 1.5mm/1.0mm aperture sieve. This monitoring shall be conducted before construction in the spring and fall and semi-annually in spring and fall for the life of the project at the replenished beach, the reference beaches and the beach west of the replenished beach and the beach east of the replenished beach.

The subtidal and intertidal monitoring must be designed to pick up, at a minimum, a 20% change between the respective impact and reference sites. That is, the monitoring must be designed to have an 80% chance of picking up a 20% change. This is sometimes referred to as the 20, 20, 20 rule where Type I error (the null hypothesis is true but rejected) or alpha is set at .20, Type II error (the null hypothesis is false but accepted) or beta is set at .20, and power is equal to 1-beta or .80.

(5) *Criteria for Detecting Adverse Impacts.* The Plan must include criteria for determining whether the project has resulted in direct or indirect adverse impacts upon one or more of the marine habitats described in Section A, above. The criteria must be amenable to quantitative assessment and must include estimates of the areas of kelp forest, eelgrass, and surfgrass lost as a result of the project.

(6) *Monitoring Reports.* Annual reports that review the results of past monitoring and report on the most recent work must be submitted no later than December 31st of each year for review by the SAP and review and approval by the Executive Director. A report at the end of 5 years shall determine whether adverse impacts to marine habitats have occurred as a result of the project as required pursuant to Special Condition 2C. If adverse impacts are detected that is when the need for mitigation will be determined.

E. Marine Habitat Mitigation and Monitoring. If adverse impacts are detected, mitigation will be required. The mitigation ratio for impacts upon subtidal rocky or intertidal rocky habitat shall be mitigated at a minimum of 4:1 because of the uncertainty and difficulty of mitigating for these habitats. Adverse impacts upon eelgrass shall be mitigated according to the California Eelgrass Mitigation Policy.

Upon detection of adverse impacts upon one or more habitats, the applicant, in consultation with the SAP, shall develop a habitat specific mitigation plan for each impacted habitat that

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will provide the overall framework to guide the mitigation work, for review and approval of the Executive Director. The revised mitigation and monitoring program shall be processed as an amendment to the coastal development permit unless the Executive Director determines that no permit amendment is required.

7. Biological Monitoring During Construction and Pre-Construction Surveys

The applicant shall retain the services of a qualified biologist or environmental resources specialist (hereinafter, "environmental resources specialist") with appropriate qualifications acceptable to the Executive Director, to monitor the site during construction and beach nourishment activities and conduct sensitive species pre-construction surveys. Prior to the commencement of development, the applicant shall submit the contact information of all monitors with a description of their duties and their on-site schedule to the Executive Director for review and approval. The applicant shall ensure that the Environmental Specialist shall perform all of the following duties, and the applicant shall observe the following requirements:

- A. The environmental resource specialists shall: (1) conduct a survey of the project site to determine presence and behavior of sensitive species one day prior to commencement of any construction activities and/or the commencement of any beach nourishment/backpassing activities on the project site, (2) immediately report the results of the survey to the applicant and the Commission, and (3) monitor the site during all construction activities related to the revetment relocation and/or any beach nourishment activities (initial nourishment, renourishment, interim nourishments, or backpassing) on the project site.
- B. In the event that the environmental resources specialist reports finding that any sensitive wildlife species (including but not limited to western snowy plover or California grunion) exhibit reproductive or nesting behavior, the applicant shall cease work and immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director.
- C. Prior to construction activities and/or the commencement of any beach nourishment/backpassing activities, the applicant shall have the environmental resource specialist conduct a survey of the project site, to determine presence of California grunion during the seasonally predicted run period and egg incubation period, as identified by the California Department of Fish and Wildlife. If the environmental resources specialist determines that any grunion spawning activity is occurring and/or that grunion are present in or adjacent to the project site, then no construction, maintenance, grading, or grooming activities shall occur on, or adjacent to, the area of the beach where grunion have been observed to spawn until the next predicted run in which no grunion are observed. Surveys shall be conducted for all seasonally predicted run periods in which material is proposed to be placed at any of the above sites. If the applicant is in the process of placing material, the material shall be graded and groomed to contours that will enhance the habitat for grunion prior to the run period. Furthermore, placement activities shall cease in order to determine whether grunion are using the beach during the following run period. The applicant shall have the environmental resource specialist provide inspection reports after each grunion run observed and shall provide copies of such reports to the Executive Director and to the California Department of Fish and Wildlife.

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- D. Prior to initiation of daily project activities, the resource specialist shall examine the beach area to preclude impacts to sensitive species. Project activities, shall not occur until any sensitive species (e.g., western snowy plovers, etc.) have left the project area or its vicinity. In the event that the environmental resource specialist determines that any sensitive wildlife species exhibit reproductive or nesting behavior, the applicant shall cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director. The applicant shall cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The environmental resource specialist(s) shall require the applicant to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The environmental resource specialist(s) shall also immediately notify the Executive Director if development activities outside of the scope of this coastal development permit occur. If significant impacts or damage occur to sensitive wildlife species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts.
- E. Turbidity. The environmental resource specialist shall visually monitor and document the turbidity of coastal waters during all beach nourishment or backpassing activities. The extent and duration of turbidity plumes shall be recorded and mapped by the monitor during each day of disposal activities. If the turbidity plume is observed to reach kelp beds or eelgrass beds, beach nourishment or backpassing shall be terminated until the turbidity plume has dissipated. If turbidity levels are significantly above ambient levels for more than three (3) consecutive days, then the rate of sand placement shall be reduced so that large, long lasting turbidity plumes are no longer created. After all sand placement operations have ceased, the applicant shall monitor and document the extent and duration of any lasting turbidity plume. The final results of all turbidity monitoring shall be reported to the Commission within 30 days following each beach nourishment and backpassing operation.
- F. The applicant shall submit documentation prepared by the environmental resource specialist which indicates the results of each pre-construction survey, including if any sensitive species were observed and associated behaviors or activities. Location of any nests observed shall be mapped.

8. Sediment Analysis and Testing

- A. *Prior to issuance of the Coastal Development Permit*, an engineer(s) or environmental professional(s), with appropriate qualifications acceptable to the Executive Director, shall prepare a Sampling and Analysis Plan for the review and approval of the Executive Director. The Sampling and Analysis Plan shall address the physical and chemical sediment testing at the source site, and shall be consistent with the following:
- (1) Sampling Frequency – Samples shall be collected throughout the source area, with one (1) sample per 0.5 acres, and a minimum of five (5) samples per source site for contaminant testing and a minimum of four (4) samples per source stockpile site for testing grain size, color, particle shape, and debris. Stockpile areas shall be divided into relatively equal areas (such as quadrants or cells) to provide representative

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- samples of the source sand. The stockpile sampling depth shall extend approximately one-foot (1-ft) beyond the anticipated stockpile height. At a minimum, sample quantities shall be sufficient for appropriate testing; archive samples for chemical testing shall be maintained; archive samples for grain size testing are optional.
- (2) Contaminants -- Based on U.S. EPA Tier I analyses results, Tier II bulk chemical and Tier III toxicity analysis shall be conducted on representative composite samples of each source material proposed for placement at the Broad Beach deposition site. The material shall be analyzed for consistency with EPA, ACOE, State Water Resources Control Board and RWQCB requirements for beach replenishment. At a minimum, the chemical analysis shall be conducted consistent with the joint EPA/Corps *Inland Testing Manual*. If the ACOE / EPA, State Water Resources Board or RWQCB determine that the sediment exceeds Effects Range Medium (ER-M) contaminant threshold levels as specified by the U.S. EPA, the materials shall not be placed at the site.
 - (3) Grain Size – Grain size analysis shall be conducted on the representative stockpile samples, using a single composite sample prepared with equal volumes from each representative sampling site. Samples shall be sieved, consistent with the American Society for Testing and Materials (ASTM) D 422-63 (Standard Test Method of Particle Size Analysis of Soils, ASTM, 2007 or as updated). Gradation curves shall be generated for each composite representative stockpile site to develop the d_{84} , d_{50} and d_{16} for visual and quantitative comparison with the established Broad Beach grain size envelope and the grain size limitations identified in Part C (Deposition of Source Material) of this condition.
 - (4) Color -- Color classification shall be conducted on representative samples of each source material proposed for placement at Broad Beach. The color shall reasonably match the color of the receiving beach after reworking by wave action.
 - (5) Particle Shape – Particle shape classification shall be conducted on representative samples of each source material proposed for placement at Broad Beach. For beach replenishment, 90% or more of the source material shall consist of rounded particles (i.e., maximum of 10% angular particles).
 - (6) Debris Content – A visual inspection of the source location shall be conducted to determine the presence and types of debris such as trash, wood, or vegetation. The amount of debris within the material shall be estimated, as a percentage of the total amount of source material. Prior to placement of source material at Broad Beach, all such debris material shall be separated from the sand material (by mechanical screening, manual removal or other means) and taken to a proper disposal site authorized to receive such material.
 - (7) Compactability – Chemical and visual inspections of the source location shall be conducted to determine the presence of elements such as iron oxides which can compact to form a hardpan surface. Source material with compactable material shall be considered for placement below the mean high tide only.

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- B.** Results from sediment testing for contaminants, grain size, color, particle shape, debris content, and compactability shall be provided to the Executive Director for review and approval prior to each separate placement of sand at the approved Broad Beach nourishment area.
- C.** Deposition of source material shall occur consistent with the following:
- (1) Source material that does not meet the applicable physical, chemical, color, particle shape, debris, and/or compactability standards for beach replenishment shall not be used. Specifically, the source material must meet the following specifications:
- a. The source material to be used for beach nourishment purposes can only contain no more than 10% fine material that is 0.074mm in size or smaller.
 - b. The source material to be used for beach nourishment purposes can contain no more than 10% coarse material greater than 2.0 mm in size, and no more than 1% of material that is 4.76mm and larger.
 - c. The D_{50} for the source material to be used for beach nourishment and dune creation purposes must be within the range of 0.25 mm to 0.6 mm.
 - d. All grain size limits shall be based upon weekly averages of multiple daily samples from the delivery trucks or stockpile area.
- (2) Each report on sediment analysis shall include confirmation by the U.S. Army Corps of Engineers and California Regional Water Quality Control Board that the material proposed for beach replenishment meets the minimum criteria necessary for placement on a sandy beach. If deemed necessary by the Regional Water Quality Control Board, the analysis will also include such confirmation from the State Water Resources Control Board regarding consistency with the 2012 Ocean Plan and any other regulations applicable in an Area of Special Biological Significance.

9. Construction and Operational Timing Constraints

It shall be the applicant's responsibility to assure that the following timing restrictions are observed, both concurrent with, and after completion of, all project operations:

- a. All project activities, with the exception of monitoring, shall occur Monday through Friday, excluding state holidays. No work shall occur on Saturday or Sunday.
- b. All work shall take place during daylight hours, except for truck arrival and departure within the limits of the existing Zuma Beach parking lot, which may occur until 9pm at night. The lighting of the beach area is prohibited unless, due to extenuating circumstances, the Executive Director authorizes non-daylight work and/or beach lighting.
- c. All construction operations, including operation of equipment, material placement, placement or removal of equipment or facilities, restricting public access, and backpassing/beach renourishment or other activities (with the exception of habitat restoration/revegetation) shall be prohibited as follows:

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- i. From the Friday prior to Memorial Day in May through Labor Day in September to avoid impacts on public recreational use of the beach and other public amenities in the project vicinity, unless, due to extenuating circumstances, the Executive director authorizes such work.
- ii. On any part of the beach and shorefront in the project area when California grunion (including eggs) are present during any run periods and corresponding egg incubation periods, as documented by the surveys conducted pursuant to Special Condition 7, to avoid impact on the spawning of the California Grunion.
- iii. On any part of the beach and shorefront in the project area when western snowy plover are present, as identified by the surveys conducted pursuant to Special Condition 7, to avoid adverse effects to western snowy plovers.

10. Construction and Operational Responsibilities

It shall be the applicant's responsibility to assure that the following requirements are observed both concurrent with, and after completion of, all project operations:

- a. All construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs.
- b. Staging areas shall be used only during active construction operations and will not be used to store materials or equipment between renourishment/backpassing operations.
- c. During construction, washing of trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. In addition, construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which prevents storm water contamination.
- d. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours. Debris shall be disposed at a debris disposal site outside of the coastal zone or at a location within the coastal zone authorized to receive such material.
- e. At the completion of the initial beach nourishment operation and any future beach supplemental beach nourishment and backpassing activities, the sand deposited on the beach shall be graded and groomed to natural beach contours to restore the shoreline habitat and to facilitate recreational use at least one month prior to Memorial Day in May. Disturbance to wrack and coastal strand habitat shall be minimized to the extent feasible.

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- f. During all beach nourishment activities authorized pursuant to this permit, the applicant shall be responsible for removing all unsuitable material or debris within the area of placement should the material be found to be unsuitable for any reason, at any time, when the presence of such unsuitable material/debris can reasonably be attributed to the placement material. Debris shall be disposed at a debris disposal site outside of the Coastal Zone or at a location within the Coastal Zone authorized to receive such material.
- g. The Permittee shall notify planning staff of the California Coastal Commission's South Central Coast District Office at least 3 working days in advance of commencement of any construction/nourishment/backpassing activities, and immediately upon completion of such activities.

11. Future Maintenance Authorized

By acceptance of this permit, the applicant acknowledges and agrees to the following:

- A. Future maintenance and repair of the rock revetment between 31350 Broad Beach Road and 30760 Broad Beach Road may be completed without a new coastal development permit for a period of 10 years commencing from the date of Commission action on this permit (until October 9, 2025) consistent with the following limitations (any other proposed maintenance or repair, and any maintenance or repair of the rock revetment after October 9, 2025, may require the issuance of an amendment to this coastal development permit or a new coastal development permit from the California Coastal Commission):
 - (1) Prior to the commencement of any such repair or maintenance work, the applicant must obtain written authorization from the Executive Director of the California Coastal Commission. The permittee shall submit a written report prepared by a professional engineer, for the review and approval of the Executive Director, identifying the proposed maintenance and repair work, method for performing work, analysis of the necessity for the work, and a quantification of any additional rock to be added to the revetment. The maintenance and repair report shall be submitted at least 60 days in advance of the proposed work to allow time for review by the Executive Director. The Executive Director's review will be for the purpose of ensuring that the nature of the work, the method proposed for the work, and all other aspects of the proposed work is consistent with the provisions of this condition, including Subparts A2, A3, A4, and A5 of this condition listed below.
 2. No future repair or maintenance, enhancement, reinforcement, or any other activity affecting the rock revetment shall be undertaken if such activity extends the seaward footprint of the subject shoreline protective device. No rock shall be placed seaward of the approved toe of the revetment and no increase in the approved height of the revetment shall occur. Any debris, rock, or other materials which become dislodged after completion through weathering, wave action or settlement shall be removed from the beach or deposited on the revetment on an as-needed basis as soon as feasible after discovery. The rock revetment may be maintained in its approved size, location, and configuration, no expansion to the size, height, or footprint of the revetment shall be allowed. The importation of a minor amount of

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new rock may be allowed if necessary to maintain the design size, height, footprint of the approved revetment although in no event shall more than 3,600 tons of new armor stone (approximately 10% of the approved volume of the revetment) be imported for any individual repair project. The addition of more than 3,600 tons of new armor stone for any individual repair project shall require an amendment to this coastal development permit or a new coastal development permit and is not exempt pursuant to this condition.

- (3) Maintenance or repair work shall only occur during the late fall or winter season from October 1 to March 15. Any repair or maintenance of the shoreline protective device between March 16 and September 30 shall require an amendment to this coastal development permit or a new coastal development permit and is not exempt pursuant to this condition, with the exception that removal of any debris, rock or other material from the sandy beach that becomes displaced from the revetment and will be deposited on the revetment or exported to an offsite disposal area shall occur on an as-needed basis, regardless of the time of the year and without the requirement for submitting a written report 60 days in advance of the work or for prior written authorization from the Executive Director.
 - (4) Maintenance or repair work shall be completed incorporating all feasible Best Management practices. No machinery shall be allowed in the active surf zone at any time. The permittee shall remove from the beach any and all debris that results from the construction/repair work period.
 - (5) The applicant shall, by accepting the written authorization from the Executive Director, shall agree and ensure that the project contractor shall comply with the following construction-related requirements:
 - a. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
 - b. Any and all debris resulting from construction activities shall be removed from the beach prior to the end of each work day;
 - c. No machinery or mechanized equipment shall be allowed at any time within the active surf zone, except for that necessary to remove the errant rocks from the beach seaward of the revetment;
 - d. All excavated beach sand shall be redeposited on the beach.
- B. The applicant shall be responsible for maintenance, repair, and replacement of the access stairways (for the provision of both public and private access) that extending from the 10 ft. wide public pedestrian path to the toe of the rock revetment below required pursuant to Special Condition 1, Part 1 and Special Condition 3, Part B. Such maintenance shall occur on as needed basis, in perpetuity for the life of the rock revetment, in order to ensure the public's ability to use the stairways.

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12. Future Development of the Site

Any future development of any property located landward of the revetment alignment approved in this coastal development permit (between 31350 Broad Beach Road to 30708 Broad Beach Rd.) shall not rely on the permitted revetment to establish geologic stability or protection from hazards. Any future development on those properties shall be sited and designed to ensure geologic and engineering stability without reliance on shoreline protective devices consistent with development standards and policies of the City of Malibu LCP.

13. Public Beach Access Areas

- A. The permittee acknowledges that the area seaward of the 2010 mean high tide line surveyed by the California State Lands Commission (“2010 MHTL”) is and will remain public property regardless of this project. Thus, although public access to some of the landward extent of that area may be limited in order to protect the dune habitat that is to be created, pursuant to Special Condition 5, public access seaward of both the ambulatory seaward limit of dune vegetation (hereinafter, the “Vegetation Line”) and the 2010 MHTL shall not be impaired or restricted. Consistent with section A.(6) of Special Condition 5, public access shall also be available on some of the public property that is seaward of the 2010 MHTL but that is landward of the Vegetation Line if the wet sand ever comes within 25 feet of the Vegetation Line.
- B. In addition, *prior to issuance of the Coastal Development Permit*, the permittee shall ensure that each owner of real property on which the approved rock revetment will lie (“Property Owner”) enters into an agreement with the Commission and the BBGHAD in the form of an irrevocable license that provides for public access landward of the 2010 MHTL under the circumstances listed below and that satisfies all of the criteria listed below.
1. Each license agreement shall provide that the public shall have a right of lateral access and passive recreational use over the seaward portion of the licensor’s private property extending 25 feet inland from the landward extent of the wet sand, until that point reaches the seaward face of the approved rock revetment, at which point the area to which the public shall have such rights will only extend landward from the wet sand to the seaward face of the revetment.
 2. If, at any time, there is no longer at least 10 feet of dry sandy beach extending seaward from any point along the seaward face of the approved revetment, providing for lateral public access, then the additional temporary springing license provisions described in Special Condition 14 of this permit shall take effect.
 3. Each license agreement must be drafted to run with the land, binding successor owners of the properties; must include an acknowledgment of the substance of section A of this condition; must include a provision authorizing the BBGHAD to record it against the property as part of a blanket recordation; must include a provision requiring the Property Owner to disclose the existence of the agreement to any prospective successor; must be acceptable to the Executive Director in form and content; and must have the signator’s signature notarized.

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4. Prior to issuance of the Coastal Development Permit, each license agreement shall be recorded against the property to which it applies
 5. A license agreement shall be completed for every property extending from 31350 to 30760 Broad Beach Road, inclusive.
 6. Each license agreement shall be written so that it is enforceable by the BBGHAD and/or the Commission, and such that the entity enforcing the agreements can seek specific performance in the context of any such enforcement, and the Commission can impose administrative penalties for any violation.
- C. Independent of the license agreement required by section B of this condition, each Property Owner who undertakes or allows any development authorized by this permit thereby consents to allow public use of the property on which such development occurred consistent with the terms of section B.1 of this condition and to inform any prospective successors that this requirement attaches to the property as long as the development remains in place.

14. Conditional Lateral Public Access over Revetment and Adjacent Pathway

A. *Prior to issuance of the Coastal Development Permit*, the permittee shall ensure that each Property Owner on which the approved revetment will lie (31350 to 30760 Broad Beach Road) enters into an agreement with the Commission and the BBGHAD in the form of an irrevocable temporary springing license that provides for lateral public access over the revetment and a strip of land immediately landward of it under the circumstances listed below and that satisfies all of the criteria listed below.

1. Circumstances Giving Rise to the Licenses

Each license shall provide for public access only if the Executive Director determines that three of the reports submitted pursuant to Special Condition No. 4.C.6 during any five-year period demonstrate that less than 10 feet of dry sandy beach has ever been available for public access seaward of the revetment and when one or more of the following conditions is occurring, and only for the duration of time that one or more of the following conditions continues to occur:

- a. If at any time there is less than ten feet of dry sandy beach providing for lateral public access extending seaward of the seaward face of the approved revetment on, or within 100 feet upcoast or downcoast of, any part of the licensor's parcel; or
- b. Any circumstance occurs (such as, but not limited to, an oil spill) that prohibits the public's use, access, and enjoyment of any of the area of licensor's property seaward of the revetment or of any property within 100 feet upcoast or downcoast thereof.

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2. **Nature of Public Access Authorized by the Licenses**

Each license agreement shall provide that the public shall have the right to pass and repass over the entire portion of the revetment that is located on the licensor's property and over an area extending from the seaward face of the revetment landward to a line parallel to and ten feet inland of the landward edge of the approved revetment for a public access pathway.
 3. **Other Requirements of the Licenses**
 - a. Each license agreement must be drafted to run with the land, binding successor owners of the properties; must include a provision authorizing the BBGHAD to record it against the property as part of a blanket recordation; must include a provision requiring the Property Owner to disclose the existence of the agreement to any prospective successor; must be acceptable to the Executive Director in form and content; and must have the signator's signature notarized.
 - b. Prior to issuance of the Coastal Development Permit, each license agreement shall be recorded against the property to which it applies.
 - c. A license agreement shall be completed for every property extending from 31350 to 30760 Broad Beach Road, inclusive.
 - d. Each license agreement shall be written so that it is enforceable by the BBGHAD and/or the Commission, and such that the entity enforcing the agreements can seek specific performance in the context of any such enforcement and the Commission can impose administrative penalties for any violation.
- B. The license agreement required by section A of this condition shall be combined with the license agreement required by Special Condition No. 13 into a single agreement with an appendix listing all of the Special Conditions of this permit so that, once recorded, the license agreement will provide record notice of all of the permit conditions.
- C. Independent of the license agreement required by section A of this condition, each Property Owner who undertakes or allows any development authorized by this permit thereby consents to allow public use of the property on which such development occurred consistent with the terms of section A.2 of this condition whenever the circumstances listed in section A.1.a or A.1.b. of this condition apply, and to inform any prospective successors that this requirement attaches to the property as long as the development remains in place.

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15. Public Access Management Program

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a Public Access Management Program that provides for the following:

A. Public Access Provisions During Construction Activities

- (1) The Public Access Management Program shall include a plan for ensuring safe public access to or around construction areas, beach deposition sites, and/or staging areas shall be maintained during all project operations. The plan shall include a description of the methods (including signs, fencing, posting of security guards, etc.) by which safe public access to or around construction areas, beach deposition sites, and/or staging areas shall be maintained during all project operations. In the event that Broad Beach must be closed to pedestrian use during active beach nourishment/renourishment operations only, then signage shall be installed indicating alternative beach access points along Broad Beach available for public access. The applicant shall maintain public access pursuant to the approved version of the report. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.
- (2) The program shall include all necessary temporary access provisions, including any necessary traffic control and crosswalk improvements, to maintain public pedestrian access between Zuma County Beach and the Trancas Market Property along the shoulder of Pacific Coast Highway immediately landward of the project site and staging area. Any temporary pedestrian access improvements within the highway right-of-way must be reviewed and approved by the California Department of Transportation (Cal Trans).
- (3) Where public parking areas are used for staging or storage of equipment and materials, unless there is no feasible alternative, the minimum number of public parking spaces (on and off-street) that are required at each receiver site for the staging of equipment, machinery and employee parking shall be used. At each site, the number of public parking spaces utilized shall be the minimum necessary to implement the project.
- (4) The applicant shall post each construction site with a notice indicating the expected dates of construction and/or beach closures.

B. Symbolic Public Access Fencing and Signage Plan

- (1) The Public Access Management Program shall include a Symbolic Public Access Fencing and Signage Plan that provides for the installation of symbolic post and cable/rope fencing along the landward limit of the ten foot wide public access path located immediately landward of the approved rock revetment. The post and cable/rope fencing shall be no more than 42 inches in height and designed to be removable in the event of wave uprush. The symbolic post and cable/rope fencing shall be installed by the applicant in a manner consistent with the approved plan within 30 days of the identified criteria requiring opening of the path to the public pursuant to the provisions of Special Condition 14, and in

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no event later than within 30 days from the date of notification if notified in writing by the Executive Director of the California Coastal Commission that the identified criteria requiring opening of the path to the public pursuant to the provisions of Special Condition 14 have been met. The Executive Director may grant additional time for good cause.

- (2) The Plan shall include the provision for the installation of signage to be incorporated into the design of the symbolic post and cable/rope fencing adequate to inform the public of their right to utilize all public access areas on site (including the lateral public access areas/paths required pursuant to Special Conditions 13 and 14, and the public access stairways required pursuant to Special Conditions 1 and 4). At a minimum, the Program shall provide for the installation of signs to be installed within 300 ft. intervals along the 10 ft. wide path and at both the western (upcoast) end and eastern (downcoast) end of the 10 ft. wide public path and adjacent to each of the two Los Angeles County public vertical accessways on site.
- (3) The plan shall show the location, size, design, and content of all signs. The applicant acknowledges and agrees that no signs shall be posted on the sandy beach, the rock revetment, or along the identified public access areas unless specifically authorized by the approved signage plan, a separate coastal development permit, or an amendment to this coastal permit. The signs may indicate that the areas of the site located landward of the public access areas are sensitive dune habitat and/or private property. No signs that restrict public access to State tidelands, public vertical or lateral access easement areas, or which purport to identify the boundary between State tidelands and private property shall be permitted. The applicant shall be responsible for removal of any such sign that comes to be installed that is inconsistent with these sign restrictions. Approved signage shall be installed concurrent with the installation of the symbolic public access fencing required pursuant to Part B.1 of this condition.
- (4) The permittee shall install all symbolic fencing signs in accordance with the approved plans. The permittee, or its successor in interest, shall maintain the approved fencing and signs in good condition for the life of the project and replace when necessary.

C. Maintenance of Existing Public Vertical Access Improvements

The applicant shall be responsible for the cost, construction, and maintenance of any new improvements (including but not limited to repairs or modifications of the two existing public access stairways that have been previously constructed over the as-built rock revetment) within the two existing vertical public access rights-of-way necessary to maintain safe public pedestrian access from Broad Beach Road to the sandy beach as required by the Executive Director and Los Angeles County Department of Beaches substantially similar to the public access that exists on site at the time of Commission action on this permit. If any such improvements, or changes over time, are necessary to maintain safe and adequate public pedestrian access, then the applicant shall submit a detailed construction plan for the review and approval of both the Executive Director and Los Angeles County Department of Beaches and Harbors and comply with any requirements imposed by those entities.

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16. Septic Conversion Implementation Study

Within three (3) years of Commission action on this Coastal Development Permit, the applicant shall submit to the Executive Director, a detailed Septic Conversion Implementation Study, prepared in part by a licensed civil/sanitary engineer or other qualified professional, analyzing alternatives for the removal of the existing on-site waste water treatment systems currently serving the residences within the Geologic Hazard Abatement District boundaries and connection of those residences to a new package sewage treatment facility or to an upgraded existing package sewage treatment facility. The study shall include an analysis and technical engineering details and requirements for the removal of the existing on-site waste water treatment systems within the District boundaries and conceptual design plans for either a new package sewage treatment plant or the upgrade of an existing treatment plant, such as the Trancas Canyon Package Sewage Treatment Plant. The study shall also include an analysis of permitting and regulatory requirements, potential environmental impacts, necessary infrastructure upgrades; alternative locations and technologies for a package sewage treatment plant; preliminary budget, including any land acquisition costs and a preliminary construction schedule/timeline for the preferred septic conversion alternative. The study shall have an initial conversion implementation goal (for the removal of the existing septic systems on the beach and connection to either a new or upgraded sewage treatment plant) of six (6) years from issuance of this coastal development permit.

The study shall be prepared in consultation with the Regional Water Quality Control Board, the City of Malibu and the County of Los Angeles if applicable. Five years from the issuance of the coastal development permit, the applicant shall submit to the Executive Director a detailed progress report on the status of implementation of the preferred septic conversion alternative, including progress on design details, environmental impact analysis, and permitting.

17. Required Approvals

Prior to the issuance of this Coastal Development Permit, the applicant shall provide evidence, for the review and approval of the Executive Director, that they have obtained all other necessary State and local government permits that may be necessary for all aspects of the proposed project including, but not limited to, permits, leases, or approvals from the California State Lands Commission, California Department of Fish and Wildlife, State Water Resources Control Board, Regional Water Quality Control Board, South Coast Air Quality Management District, California Department of Transportation, and authorization for all staging and stockpile areas within Zuma Beach County Park from Los Angeles County Department of Beaches and Harbors, unless evidence is submitted that such approval(s) are not required. In addition, by acceptance of this permit, the applicant agrees to obtain all necessary Federal permits, consultations, or approvals that may be necessary for all aspects of the proposed project (including, but not limited to, the U.S. Army Corps of Engineers, and National Marine Fishery Service).

18. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion, liquefaction, waves, flooding, and sea level rise; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such

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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; and (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 (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

Prior to issuance of the Coastal Development Permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

19. Indemnification by Applicant

Liability for Costs and Attorney's Fees: By acceptance of this permit, the Applicant/Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorney's fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorney's fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.