A RESOLUTION RECOMMENDING TO THE CITY COUNCIL ADOPTION OF A STATEMENT OF OVERRIDING CONSIDERATIONS, APPROVAL OF VESTING TENTATIVE SUBDIVISION MAP TM-01-03, USE PERMIT UP-01-21 (RESIDENTIAL COMPONENT), USE PERMIT UP 01-20 (TIMESHARE COMPONENT), SITE PLAN REVIEW SPR-01-03 (HOTEL COMPONENT), DESIGN REVIEW BAR-01-27, USE PERMIT UP-04-22 (ON-SALE ALCOHOLIC BEVERAGES), THE MITIGATION MONITORING AND REPORTING PROGRAM, AND FINDINGS AND CONDITIONS IN CONSIDERATION OF SUCH APPROVALS.

Findings of Fact:

A. WHEREAS, the City of Seaside (the "City"), on February 17, 2000 entered into the “Exclusive Negotiating Rights Agreement for Golf Course Resort Site” (“the ENRA”) with Seaside Resort Development, LLC (the "Applicant") with respect to development of resort improvements including hotel, timeshare and housing improvements (the “Project”) on 84.88 acres of the Bayonet and Black Horse golf courses to be excluded from the existing golf course leased premises, also known as Assessor's Parcel No. 031-051-005 (the "Property"); and

B. WHEREAS on and March 4, 2004, the City and the Applicant entered into an amended and restated ENRA; and

C. WHEREAS, on August 17, 2001 the Applicant completed preliminary project designs and submitted applications to the City for a Vesting Tentative Subdivision Map, a Use Permit for residential lots, a Use Permit for timeshare units, Site Plan Review for the hotel, Design Review and a Statutory Development Agreement, and supporting technical documents for the Project (the “Applications”); and

D. WHEREAS, the City determined that such applications were complete pursuant to Government Code Section 65920 et seq.; and

E. WHEREAS, on August 4, 2004, the Applicant submitted an application for a conditional use permit for on-sale alcoholic beverages; and

F. WHEREAS, the U.S. Army prepared the Fort Ord Disposal and Reuse Final Environmental Impact Statement (June, 1993) and the Fort Ord Disposal and Reuse Draft Supplemental Environmental Impact Statement (December, 1995), relating to the disposal and reuse of the military base, and which evaluated environmental issues related to base closure actions; and

G. WHEREAS, on June 13, 1997, the Fort Ord Reuse Authority certified, and adopted findings in consideration of, the Fort Ord Reuse Plan Final Program Environmental Impact Report (the "Reuse Plan EIR"), a program environmental impact report prepared pursuant
to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 15000 et seq. (the "CEQA Guidelines"), and as specifically provided for in Section 15168 of the CEQA Guidelines, which evaluated the potentially significant environmental effects of the Reuse Plan (as defined below), including the effects of developing the Property in a manner consistent with the Reuse Plan; and

H. WHEREAS, on June 13, 1997, the Fort Ord Reuse Authority adopted the Fort Ord Reuse Plan, a comprehensive planning document intended to guide development of lands within the former Fort Ord, including the Property, prepared pursuant to Government Code Section 67650 et seq. (the "Reuse Plan"); and

I. WHEREAS, on August 12, 1998, by Resolution No. 98-81, the City adopted amendments to its General Plan for the purpose of providing land use designations, policies, and development standards for the City's lands within the former Fort Ord, including the Property, in conformance with the land use designations and development standards and policies of the Reuse Plan; and

J. WHEREAS, in conjunction with the approval of the amendment to the General Plan, the City prepared an Addendum to the Reuse Plan EIR (hereafter included in the definition of the "Reuse Plan EIR"), in which the City adopted certain mitigation means and mitigation monitoring programs, as provided in the Resolution 98-81; and

K. WHEREAS, by Ordinance No. 878, approved on September 3, 1998, the City adopted amendments to its Zoning Ordinance for the purpose of providing zoning designations and development standards for the City's lands within the former Fort Ord, including the Property, in conformance with the land use designations, policies, and development standards of the Reuse Plan; and

L. WHEREAS, on November 30, 1998, FORA and the Sierra Club entered into a Settlement Agreement, and FORA adopted Chapter 8 of the Fort Ord Reuse Authority Master Resolution, also known as Chapter I, Base Reuse Planning and Consistency Determinations ("FORA Master Resolution") that, among other matters, includes additional provisions related to Base Reuse Planning and Consistency Determinations for the property as part of the former Fort Ord site; and

M. WHEREAS, on December 11, 1998 by Resolution No. 98-2, the Fort Ord Reuse Authority ("FORA") determined that the amendments to the City's General Plan and Zoning Ordinance were consistent with the Reuse Plan pursuant to Government Code Section 67675 et seq. and the FORA Master Resolution; and,

N. WHEREAS, on May 31, 2001, FORA and the City entered into that certain Implementation Agreement, which implements the provisions of the Reuse Plan within the jurisdiction of the City, the provisions of which are applicable to the Property; and

O. WHEREAS, the U.S. Army caused to be prepared the Installation-Wide Multispecies Habitat Management Plan ("HMP") for the Former Fort Ord, California, dated
April 1997, to provide mitigation for certain impacts to biological resources due to the U.S. Army’s decision to close and dispose of the Fort Ord military base; and

P. WHEREAS, the requirements of the HMP are applicable for all parties receiving land at the former Fort Ord through the development and execution of a Habitat Conservation Plan (“HCP”) and Implementing Agreement (“IA”), drafts of which were submitted to the U.S. Fish and Wildlife Service (“USFWS”) and the California Department of Fish and Game (“CDFG”) in 2000, and are pending signature by USFWS and CDFG to execute the HCP and IA; and

Q. WHEREAS, in 2000, the U.S. Army and FORA entered into a Memorandum Of Agreement for the Sale Of Portions of The Former Fort Ord, that obligates FORA and member jurisdictions to, among other matters, implement the HMP, more specifically through execution of the HCP and IA; and

R. WHEREAS, FORA and the City of Seaside intend to take the necessary action to execute the HMP upon signature of the HCP and IA by the USFWS and CDFG, and have incorporated Project Conditions consistent with the requirements of state and federal law regarding protection of biological resources; and

S. WHEREAS, on July 19, 2001, by Ordinance No. 897, the City adopted an amendment to Title 17 Chapter 17.83 of the Seaside Zoning Ordinance to allow conditional uses, including residential, timeshare and employee housing uses, in the V-FO Zoning District based on the adoption of a Negative Declaration that was circulated with an Initial Study for public review between May 30, 2001 and June 18, 2001; and

T. WHEREAS, on August 10, 2001, by Resolution 01-8, the Fort Ord Reuse Authority (“FORA”) determined that conditional uses, including residential, timeshare and employee housing, in the V-FO District of the Seaside Zoning Ordinance were consistent with the Fort Ord Reuse Plan, pursuant to Government Code Section 67675 et seq. and the Master Resolution; and,

U. WHEREAS, the Property is subject to that certain Redevelopment Plan for the Seaside-Fort Ord Redevelopment Project (the “Redevelopment Plan”), adopted by the City Council on April 18, 2002, by Ordinance 901; and

V. WHEREAS, in August 2002 and in May 2004, the City caused to be prepared and circulated for public review a Draft EIR (the “DEIR”) and Revised DEIR (the “RDEIR”) respectively for the Project which, in conjunction with the supplemental materials included in Exhibits A through F were reviewed and considered; and

W. WHEREAS, the Final Environmental Impact Report (the “FEIR”) will include: 1) the DEIR and RDEIR in Exhibit D; 2) the responses to comments in Exhibit E; 3) subsequent comments on environmental issues received outside the normal public comment period but prior to the time of certification of the EIR, responses to significant environmental points raised in the CEQA and CEQA Guidelines public review and consultation process, and other information
added to the record by the City prior to certification of the EIR, attached hereto as Exhibit F; and 4) the final mitigation measures for the project as presented in Exhibit G; and

X. WHEREAS, by Resolution No. 04-37 dated August 25, 2004, the Planning Commission has recommended certification of a Final Environmental Impact Report (the “FEIR”) for the Project, the findings and evidence for which are incorporated herein by reference; and

Y. WHEREAS, the City has caused to be prepared a Mitigation Monitoring and Reporting Program, attached hereto and incorporated herein as Exhibit G, pursuant to California Public Resources Code Section 21081.6 and the CEQA Guidelines section 15097, to ensure compliance with FEIR mitigation measures required of the Project by the City; and

Z. WHEREAS, the BAR conducted duly noticed public hearings on June 16, 2003 July 20, 2004 (field trip) and July 21, 2004 at which meetings it received public testimony and recommended approval of the Project's architecture, landscaping, and other aesthetic and design issues in accordance with its duties under Chapter 17.70.070 of the Municipal Code of the City; and

AA. WHEREAS, by the FEIR, staff report and exhibits accompanying this Resolution and incorporated into this Resolution by reference, the Planning Commission has been provided with additional information upon which the findings and actions set forth in this Resolution are based; and

AB. WHEREAS, notice of time and place of hearing for recommendation of certification of the FEIR and consideration of the Project land use permits were given in the manner prescribed by Chapters 16.16.060 and 17.68.040 of the Municipal Code of the City and CEQA statutes and guidelines; and

AC. WHEREAS, the matters of the FEIR and the Project land use permits were called for hearing, and oral and documentary evidence was introduced and received and the matters submitted for a decision;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SEASIDE, CALIFORNIA, AS FOLLOWS:

1. The Planning Commission finds that the above recitals and the information contained in the attached Exhibits are accurate and are hereby incorporated in and made part of this Resolution by this reference.

2. The Planning Commission declares that it has been provided with and reviewed evidence in the record to support the findings for project consideration, as well as the staff report for the Project and written and oral testimony (collectively, the “Record of Proceedings”) and hereby provides notification that the Record of Proceedings is on file with Joyce E. Newsome, Clerk of the City at City Hall, 440 Harcourt Avenue, Seaside, CA 93955.
3. The Planning Commission has reviewed the proposed Statement of Overriding Considerations set forth in Section 22 of Exhibit I. Based upon its review of the evidence in the record, the Planning Commission finds that the proposed statement provides substantial evidence that the environmental risk of the project have been balanced against its benefits and recommends that the City Council approve the Statement pursuant to the requirements of CEQA.

4. The Planning Commission hereby recommends adoption and imposition of the mitigation measures identified in the FEIR as modified and set forth in the Mitigation Monitoring and Reporting Program and as described in Part One of the Findings (Exhibit I) and recommends imposition of the Mitigation Monitoring and Reporting Program as project conditions of approval. The Planning Commission further finds that the modifications to the mitigation measures that have been made since circulation of the Revised Draft EIR do not constitute the addition of new significant information to the EIR within the meaning of State CEQA Guidelines Section 15088.1

5. The Planning Commission hereby recommends approval of the dedication to the Project, from the City's Fort Ord water allocation, sufficient potable water for the Project amounting to 161.4 acre feet per year ("AFY"), 16.8 AFY of which is intended for landscaping irrigation purposes. The assumptions used to develop the above water allocation amounts are described in more detail in the DEIR and RDEIR (Exhibit D).

6. The Planning Commission hereby recommends that consistent with the conditions of approval regarding non potable water that the Project shall connect irrigation systems to a non potable water supply at such time as non potable water is feasibly provided to the Project from a Marina Coast Water District water augmentation project.

7. The Planning Commission hereby recommends approval and designation to the Project, from the City’s Fort Ord allocation, sufficient sewer capacity to fully serve the Project, which capacity is estimated at 90,340 gallons per day of flow. Further, the Planning Commission hereby recommends authorization for the Marina Coast Water District to provide sewer collection service to the Project.

8. Having reviewed the information contained in the FEIR to date, the evidence in the record, the staff report and recommendations, the Planning Commission hereby adopts the findings contained in the documents entitled “CEQA Findings” (Exhibit II) and “Project Findings” (Exhibit I), which findings are incorporated herein by this reference, and based on those findings, recommends approval of Vesting Tentative Subdivision Map TM-01-03, Use Permit UP-01-19 (residential component) Use Permit UP-01-20 (timeshare component), Use Permit UP-04-22 (on-sale alcoholic beverages), Site Plan Review SPR-01-03 (hotel), Design Review Permit BAR-01-19, and in accordance with Municipal Code section 8.54.040 does hereby recommend granting approval of the tree removal/planting permit as an integral part of these permits, subject to the Project Conditions attached hereto and incorporated herein by reference as Exhibit J.
9. The Planning Commission hereby determines that the findings supported by the evidence in the record provide good cause for recommending approval of the application request to the City Council.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Seaside, State of California on the 8th day of September, 2004.

Ayes: Commissioners Craghead; Robinson; Mugan; Meredith; and Montes
Noes:
Absent:

APPROVED:

[Signature]
Paul Mugan
Chair

ATTEST:

[Signature]
Planning Commission Secretary
Exhibits to Resolution No. 04-37

The following Exhibits are hereby incorporated by reference into Resolution 04-37

EXHIBIT “A” DEIR Notice of Preparation (NOP)
EXHIBIT “B” Comments on the NOP
EXHIBIT “C” DEIR and RDEIR Notices of Completion
EXHIBIT “D” DEIR and RDEIR
EXHIBIT “E” FEIR
EXHIBIT “F” Additional Information and Comments and Responses on Environmental Issues
EXHIBIT “G” Mitigation Monitoring and Reporting Program
EXHIBIT “H” CEQA Findings (incorporate EIR by reference in findings)
EXHIBIT “I” Project Findings (consistency with Fort Ord Reuse Plan, General Plan, Zoning Ordinance; other mandatory findings)
EXHIBIT “J” Project Conditions
EXHIBIT “K” Vesting Tentative Subdivision Map
EXHIBIT “L” Additional Information on Project and Permit Issues
Exhibit J

PROJECT CONDITIONS

For Planning Commission Resolution 04-37

Note: Cross-reference between Project Conditions and Environmental Mitigation Measures contained in the Project EIR are indicated in parentheses at the end of the affected Project Conditions, e.g. (MM 38). In some cases Environmental Mitigation Measures in the Project Conditions have been edited for consistency of style. Should a difference of interpretation between the text of a Project Condition and its counterpart Environmental Mitigation Measure occur, it shall be resolved by the Community Development Director. Conditions not marked with an “MM” notation are not CEQA mitigation measures, and do not require monitoring or reporting under the CEQA Mitigation Monitoring and Reporting Program.

APPLICABLE TO ALL COMPONENTS AND PERMITS

1. AGREEMENT TO ACCEPT CONDITIONS. These approvals shall have no force or effect unless and until the Applicant executes an affidavit of acceptance of these Project Conditions in a form acceptable to the City Manager.

2. CONFORMANCE OF PLANS. Plans submitted for a Building Permit shall substantially conform to the VTM dated August 2004 and related plans and exhibits identified as “Seaside Resort”, stamped “Received July 14, 2004” except as modified by the Project Conditions.

3. SUCCESSORS IN INTEREST. The approvals granted shall run with the land and shall be valid for the Applicant’s successors in interest, except if a use authorized by a permit has been discontinued or modified for a period of one year, then such original use shall not be reestablished unless it is authorized under new proceedings.

4. DEVELOPMENT STANDARDS. The uses and development of the Project site shall conform to the uses and development standards contained in applicable sections of the Seaside Municipal Code that were in effect at the time of acceptance by the City of the Project applications as complete, except that amendments to the Municipal Code amending Chapter 17.04 that add a definition of timeshare and add Chapter 17.43 establishing standards for timeshare projects shall apply to the Project site and its development.

5. INDEMNIFICATION. The Applicant agrees as a condition and in consideration of the approval of these approvals that it shall defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The Applicant shall reimburse the City for any court costs and attorney’s fees that the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve Applicant of his obligations under this condition. An agreement to this effect shall be
recorded upon demand of City Council concurrent with the issuance of permits or use of the property, whichever occurs first and as applicable. The City shall promptly notify the Applicant of any such claim, action or proceeding, and the City shall cooperate fully in the defense thereof. If the City fails to promptly notify the Applicant of any such claim, action, or proceeding or fails to cooperate fully in the defense thereof, the Applicant shall not thereafter be responsible to defend, indemnify, or hold the City harmless.

6. MITIGATION MONITORING AND REPORTING. The mitigation measures set forth in the EIR as necessary to mitigate or reduce significant effects on the environment shall be implemented in the manner set forth in the Mitigation Monitoring and Reporting Program established for the Project by the City pursuant to California Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097. The Program is provided as Exhibit G to Planning Commission Resolutions No. 04-36 and 04-37 and is incorporated herein by this reference.

7. COMPLIANCE WITH DISPOSITION AND DEVELOPMENT AGREEMENT (DDA). The Applicant shall comply with the terms and conditions of the DDA by and between the Redevelopment Agency of the City of Seaside and Seaside Resort Development LLC dated ____________.

8. ACCESS. For purposes of assuring compliance, the Applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties except as necessary for health and safety.

9. TIME LIMITATIONS. These Project approvals shall become null and void if a building or grading permit is not issued and construction has not commenced, or a Parcel Map or Final Subdivision Map has not been recorded, within two years from the date that the City Council approves the Project, plus time extensions allowed by the Subdivision Map Act.

10. TOLLING OF TIME LIMITATIONS. Time limits for commencement of activity under any Project approval set forth in state law or the Municipal Code shall be automatically tolled during the pendency of litigation, referendum, or other action seeking to invalidate or set aside any Project-related approval. Application for tolling of any requirement for any other reason shall be made by the Applicant, its successors or assigns, to the City Manager. A determination on a request for tolling shall be made by the City Manager in consultation with the City Attorney.

11. SUBSEQUENT APPLICATIONS – GENERAL. The Municipal Code requires that separate applications eventually be made by owners of residential lots on which homes would subsequently be constructed, and by the golf course operator for the relocated golf course maintenance building and golf features. Such applications shall be subject to review and consideration by the applicable body or official specified by the Municipal Code, including consideration of building elevations, fencing, and landscaping, and shall incorporate the requirements of applicable Project Conditions enumerated herein, prior to approval of those applications.
12. SUBSEQUENT APPLICATIONS - AFFORDABLE AND WORKFORCE HOUSING. The Applicant shall apply to the City for a housing project of not less than 100 units to satisfy the affordable housing requirement of the residential component and the workforce housing requirement of the hotel component of the Project. Said requirements shall be satisfied at the SunBay site and shall utilize the existing 20 aky water allocation of Southwest SunBay Landco at that site, unless otherwise authorized in writing by the City Manager. The requirements for such affordable and workforce housing, including the time at which the application shall be filed with the City, and the time when the affordable and workforce housing shall be complete and available for occupancy, shall be specified in the DDA for the Project.

13. BUSINESS OPERATIONS TAX CERTIFICATE. Contractors and subcontractors involved in construction of the Project shall secure a Business Operations Tax Certificate (Business License) from the City prior to commencing work and shall maintain said Certificate in force for the duration of the contract.

14. FORT ORD REUSE AUTHORITY (FORA) REQUIREMENTS. The Applicant shall acknowledge that the City’s approval of the Project is subject to the requirements of FORA and shall agree to comply with applicable FORA requirements, including but not limited to compliance with applicable reuse plan FEIR mitigation measures and monitoring plan requirements, master resolution requirements and payment of development fees. Development fees shall be paid in the amount and manner set forth in the “Notice of Special Tax Lien – Fort Ord Reuse Authority Basewide Community Facilities District” (CFD).

15. FISH AND GAME FEE. The Applicant shall pay a fee to be collected by the Clerk of the County of Monterey in the amount of $875 pursuant to State Fish and Game Code section 711.4. This fee shall be paid on or before the filing of the Notice of Determination.

16. CITY PLAN FEES. The Applicant shall be responsible to pay fees for City services necessary to implement the Project in accordance with the then-current schedule adopted pursuant to Chapter 3.28 of the Municipal Code. Upon Applicant’s request for the first service required for Project implementation, the Applicant shall deposit with the Director of Finance an initial amount of _____ to be held in a reimbursement trust account for payment of fees associated with plan check, map review, inspection and permit fees and other such costs applicable to the Project.

17. FINANCING OF IMPROVEMENTS AND SERVICES THROUGH AN ASSESSMENT DISTRICT(S) AND/OR COMMUNITY FACILITY DISTRICT(S). This Project and these Project Conditions call for the construction and acquisition of certain specified public improvements and equipment, including, but not limited to, neighborhood and community parks, fire stations, fire apparatus, police equipment, and emergency access and the payment of various fees to mitigate the impact of the project on various environmental resources, public facilities and public services (Mitigation Measures MM 32, 33, 34, 35, 36, 38, 39, 41 and 42). As a means of financing required capital improvements, the Applicant, no later than at the time the first Final Subdivision Map is submitted to the City for approval, may request, and the City will consider, pursuant to Government Code Section 66462 (a)(2), the initiation and consummation of proceedings under an appropriate special assessment act(s) and/or the Mello-Roos Community.
Facilities Act of 1982 (Government Code Sections 53311 et seq.) for the purpose of forming one or more districts, levying a special tax and/or special assessment against the properties comprising the project site, and issuing bonds to finance the eligible capital improvements. If the terms and conditions for the formation of the District(s) are not specified in the DDA, they shall be determined and agreed upon prior to the approval of the first Final Map.

18. NEIGHBORHOOD PARK FEE. Prior to recodardation of the Final Map for the first phase of the Project, the Applicant shall enter into an agreement with the City of Seaside to pay a fair share development fee, or an amount as otherwise agreed to in the DDA, for the purpose of providing and developing Neighborhood Parkland as required in the Fort Ord Reuse Plan and the Seaside General Plan. The fee attributable to each phase of the Project shall be paid prior to recodardation of the Final Map for each Project phase. If the amount of the fee is not provided in the DDA, the Applicant's fair share of the fees required by this condition shall be based on either the ratios and methodologies specified in the EIR for this Project or, if an assessment district is formed to finance the cost of the fee, that amount shall be determined by the assessment district engineer, with the concurrence of the City Council. (MM 41)

19. COMMUNITY PARK FEE. Prior to recodardation of the Final Map for the first phase of the Project, the Applicant shall enter into an agreement with the City of Seaside to pay a fair share development fee, or as an amount as otherwise agreed to in the DDA, for the purpose of providing and developing Community Parkland as required in the Fort Ord Reuse Plan and the Seaside General Plan. The fee attributable to each phase of the Project shall be paid prior to recodardation of the Final Map for each Project phase. If the amount of the fee is not provided in the DDA, the Applicant's fair share of the fees required by this condition shall be based on either the ratios and methodologies specified in the EIR for this Project or, if an assessment district is formed to finance the cost of the fee, that amount shall be determined by the assessment district engineer, with the concurrence of the City Council. (MM42)

20. FIRE STATION FEE. Prior to recodardation of the Final Map for the first phase of the Project, the Applicant shall pay a fair share development fee, or an amount as otherwise agreed to in the DDA, for the purpose of constructing a fire station on the former Fort Ord within the City limits. The fee attributable to each phase of the Project shall be paid prior to recodardation of the Final Map for each project phase. If the amount of the fee is not provided in the DDA, the Applicant's fair share of the fees required by this condition shall be based on either the ratios and methodologies specified in the EIR for this Project or, if an assessment district is formed to finance the cost of the fee, that amount shall be determined by the assessment district engineer, with the concurrence of the City Council. If an assessment district is not formed, the Applicant shall be required to construct the fire station prior to the opening of the hotel, subject to a reimbursement agreement whereby the Applicant is entitled to recover costs in excess of those due from Applicant under this Project Condition, and not already paid by the City from funds accumulated for this purpose from fees previously paid by other projects. (MM 32)

21. FIRE APPARATUS FEE. Prior to recodardation of the Final Map for the first phase of the Project, the Applicant shall pay a fair share development fee, or an amount as otherwise agreed to in the DDA, for the purpose of providing the following fire apparatus, or equivalent for use at the
former Fort Ord as determined by the Fire Chief and approved by the City Manager: 1) standard pumper engine; and 2) quint engine with a 75-foot ladder, or equivalent as determined by the Fire Chief. The fee attributable to each phase of the Project shall be paid prior to recordation of the Final Map for each project phase. If the amount of the fee is not provided in the DDA, the Applicant’s fair share of the fees required by this condition shall be based on either the ratios and methodologies specified in the EIR for this Project or, if an assessment district is formed to finance the cost of the fee, that amount shall be determined by the assessment district engineer, with the concurrence of the City Council. (MM 33)

22. POLICE HEADQUARTERS FEE. Prior to recordation of the Final Map for the first phase of the Project, the Applicant shall pay a fair share development fee, or an amount as otherwise agreed to in the DDA, for the purpose of expanding Police Department headquarters office space and expanding the wireless communications system. The fee attributable to each phase of the Project shall be paid prior to recordation of the Final Map for each project phase. If the amount of the fee is not provided in the DDA, the Applicant’s fair share of the fees required by this condition shall be based on either the ratios and methodologies specified in the EIR for this Project or, if an assessment district is formed to finance the cost of the fee, that amount shall be determined by the assessment district engineer, with the concurrence of the City Council. (MM 34)

23. POLICE SUBSTATION FEE. Prior to recordation of the Final Map for the first phase of the Project, the Applicant shall pay a fair share development fee, or an amount as otherwise agreed to in the DDA, for the purpose of constructing a police substation on the former Fort Ord within the City limits. The fee attributable to each phase of the Project shall be paid prior to recordation of the Final Map for each project phase. If the amount of the fee is not provided in the DDA, the Applicant’s fair share of the fees required by this condition shall be based on either the ratios and methodologies specified in the EIR for this Project or, if an assessment district is formed to finance the cost of the fee, that amount shall be determined by the assessment district engineer, with the concurrence of the City Council. (MM 35)

24. POLICE EQUIPMENT FEE. Prior to recordation of the Final Map for the first phase of the Project, the Applicant shall pay a fair share development fee, or an amount as otherwise agreed to in the DDA, for the purpose of providing the following police equipment and capitalized procedures for use at the former Fort Ord as determined by the Police Chief and approved by the City Manager:

a) Four patrol cars (Equipped for various purposes as determined by the Police Chief);

b) Officer equipment for eight patrol officers; and

c) Officer background checks for eight patrol officers.

The fee attributable to each phase of the Project shall be paid prior to recordation of the Final Map for each project phase. If the amount of the fee is not provided in the DDA, the Applicant’s fair share of the fees required by this condition shall be based on either the ratios and methodologies specified in the EIR for this Project or, if an assessment district is formed to
finance the cost of the fee, that amount shall be determined by the assessment district engineer, with the concurrence of the City Council. (MM 36)

25. EMERGENCY VEHICLE ACCESS PARALTA AVENUE. The Paralta Avenue EVA has been constructed by the developer of the Seaside Highlands project pursuant to the Seaside Highlands Reimbursement Agreement dated August 21, 2003. The Resort Project, identified in the Agreement as “Golf Course Hotel”, is a Benefited Development. Prior to recorrection of the first Final Map or issuance of the first building permit or use permit for the Project, the Applicant shall pay its 13.3% fair share of the cost of the Paralta Avenue EVA as set forth in Section 7 of that Agreement, unless otherwise provided by Section 7.3 of the Agreement. DDA, if an assessment district or districts are formed pursuant to Condition 17 and the fee required by this condition is to be financed by an assessment district, the applicant’s fair share of the fees required by this condition shall be based on the ratios and methodologies specified in the EIR for this project or as otherwise determined by the assessment district engineer. (MM 38)

26. GATEWAY IMPROVEMENT REIMBURSEMENT AGREEMENT. The Gateway improvement projects have been constructed by the developer of the Seaside Highlands project pursuant to the Seaside Highlands Reimbursement Agreement dated August 21, 2003. The Resort project, identified in the Agreement as “Golf Course Hotel”, is a benefited Development. Prior to recorrection of the first Final Map or issuance of the first building permit or use permit for the Project, the Applicant shall pay its 21.6% fair share of the cost of the Gateway Improvements as set forth in Section 6 of that Agreement.

27. INTEGRATED CONSTRUCTION MANAGEMENT PLAN. Applicant shall prepare an integrated Construction Management Plan that takes into account construction and timing requirements of Resort Project components and relocation requirements for existing golf course buildings and facilities (e.g. clubhouse, cart storage, driving range, maintenance building and other golf features). The Plan shall minimize, to the maximum extent feasible, disruption of public access to the existing golf course operation, economic costs of construction disruption to the golf course operator and the City, and the duration of temporary closures of existing facilities. This Plan shall be prepared in cooperation with the City and the golf course operator, reviewed by the Public Works Director, and approved by the City Manager prior to the issuance of grading or building permits for any component of the Project.

28. CONSTRUCTION TRAFFIC MANAGEMENT. The Applicant shall prepare a Construction Traffic Management Plan. The plan shall establish preferred access routes for the construction workforce and shall designate required truck routes and hours of truck travel during construction of the proposed Project. Trucks shall haul debris from the Project site to the Marina Landfill or other acceptable landfill, except materials that are not accepted at the Marina Landfill or other acceptable landfill may be brought to the nearest acceptable disposal location for that material. The plan shall minimize the use of Coe Avenue for construction workforce access and truck routing to the extent feasible. The plan shall be reviewed and approved by the Public Works Director prior to issuance of a grading or building permit.
29. CONSTRUCTION EMERGENCY ACCESS. The Applicant shall prepare a construction emergency access plan that ensures adequate access for emergency vehicles to all areas of the Project and existing golf course facilities during construction. Access roads, if not paved, shall be able to accommodate the weight of a typical fire engine (approximately 41,000 pounds). The plan shall be prepared with the input of the Fire and Police Chiefs, and shall be approved by them prior to commencement of construction.

30. CONSTRUCTION SAFETY. The Project area shall be fenced, as necessary, during construction for safety purposes and to keep out unauthorized personnel, as determined by the Public Works Director.

31. HAZARDOUS MATERIALS. Hazardous materials brought on to the site during construction shall be safely stored in accordance with the governmental agency regulating the material, and shall be removed from the site when no longer required, or upon completion of construction, whichever occurs first.

32. CONSTRUCTION HOURS. The following language shall be included on plan specifications and in any permits issued for the Project:

    Noise generating construction activities are limited to weekdays between 7:00 AM and 7:00 PM, Saturdays between 9:00 AM and 5:00 PM, Sundays and holidays between 10:00 AM and 5:00 PM. Once per week, or other time frame as approved by the Public Works Director, the lead contractor shall provide a description of the work to be performed and the construction schedule for the next two week period to the Public Works Director, the Army Directorate of Environmental and Natural Resources Management and the Monterey Peninsula Unified School District administration during demolition, grading and construction of improvements. (MM 29)

The Public Works Director shall have the discretion to modify the time and/or location of noise generating construction activities.

33. CONSTRUCTION EQUIPMENT NOISE REDUCTION. Construction equipment shall be properly outfitted and maintained with noise reduction devices to minimize construction-generated noise in accordance with the standards presented in Table 18 on page 2-84 of the Draft EIR, or equivalent standard if no standard is presented in Table 18. Wherever feasible, noise-generating equipment shall be shielded from nearby sensitive receptors by noise attenuating buffers such as structures or trucks. Stationary construction equipment shall be centrally located on site at the greatest distance possible from nearby noise-sensitive receptors. (MM 30)

34. DUST CONTROL. Project Improvement Plans shall contain provisions for dust control acceptable to the Public Works Director prior to issuance of a building permit and shall include all or some of the following measures, as necessary to adequately control dust.

   a) Water all active portions of the construction site at least twice daily using only non-potable water,
b) Suspend all excavation and grading operations when wind speeds exceed 15 miles per hour averaged over one hour, if watering activities are inadequate to control airborne dust,

c) Replace ground cover or apply MBUAPCD-approved chemical soil stabilizers according to manufacturer’s specifications to all inactive portions of the construction site (previously graded areas inactive for four days of more), when airborne dust conditions are visible,

d) Apply water two times daily or chemical stabilizers according to manufacturer’s specifications to all inactive portions of the construction site (previously graded areas inactive for four days or more), when airborne dust conditions are visible,

e) Sufficiently water or securely cover all material transported off-site and adjust on-site loads as necessary to prevent airborne dust conditions. Haul trucks shall maintain enough freeboard to prevent airborne dust conditions,

f) Plant vegetative ground cover in, or otherwise stabilize disturbed areas as soon as grading and construction activities in those areas are completed,

g) Cover material stockpiles that remain inactive for more than 72 consecutive hours,

h) Provide dust free stabilized surfaces at the exit of construction sites for all exiting trucks,

i) Sweep adjacent public streets at the end of each day if visible soil material is carried out from the construction site,

j) Limit traffic speed on all unpaved roads to 15 miles per hour or less,

k) Post a publicly visible sign that specifies the telephone number of the on-site contractor and person to contract regarding dust complaints. This person shall respond to complaints and take corrective action by the end of the same day if the complaint is received by 12:00 noon and within 24 hours if the complaint is received later than 12:00 noon. The phone number of the MBUAPCD shall be visible to ensure compliance with Rule 402 (Nuisance),

l) The grading contractor shall appoint a qualified site monitor to ensure that the plan is implemented, or

m) Limit the area of grading to 2.2 acres per day during earthmoving efforts (grading and excavation) and 8.1 acres per day with minimal earthmoving (finish grading). The number of acres may be increased if direct emissions of PM10 do not exceed MBUAPCD’s threshold of significance based on MBUAPCD approved dispersion modeling. (MM 8)
35. CONSTRUCTION MAINTENANCE AND RECYCLING. The construction site shall be maintained in a clean and orderly manner on a daily basis. Project materials and waste generated or removed during the construction of the Project shall be recycled in accordance with the State and City requirements.

36. ARCHAEOLOGICAL RESOURCES. Because of the possibility that significant buried cultural resources may be found during construction, the following language shall be included in construction contracts:

If historical or unique archaeological resources are accidentally discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project proponent shall notify the Director of the Archaeological Regional Research Center to arrange for an immediate evaluation of the find by a qualified archaeologist. The qualified archaeologist shall determine whether or not the site is a historical resource as defined in CEQA Guidelines section 15064.5(a). If it is determined that the site is a historical resource, the City shall refer to the provisions of CEQA Guidelines section 15064.5 and the provisions of section 15126.4 of the Public Resources Code to determine the significant environmental effects of the Project on this historical resource. If the archaeological site does not meet the criteria defined in CEQA Guidelines section 15064.5(a), but does meet the definition of a unique archaeological resource in Public Resources Code section 21083.2, the preferred project site shall be treated in accordance with the provisions of this section. If it is found that the Project will cause damage to a unique archaeological resource, the City shall require that reasonable efforts be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Some of the measures to be taken in the event of a discovery include: planning future construction to avoid the archaeological site; deeding archaeological sites into permanent conservation easements; capping or covering archaeological site with a layer of soil before building on the sites; and/or planning parks, green space or other open space to incorporate the archaeological sites in the site plan. (MM 20)

37. DISCOVERY OF HUMAN REMAINS. Because of the possibility of accidental discovery or recognition of any human remains during construction, the following language shall be included in construction contracts, in accordance with CEQA Guidelines section 15064.5(e):

If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the City Police Department is notified and contacts the coroner of Monterey County to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations
to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner. (MM 21)

38. ORDNANCE AND EXPLOSIVES REVIEW. The Presidio of Monterey, Directorate of Environmental and Natural Resources Management (DENR) shall review the Project site, prior to issuance of a grading or building permit, to determine if the Project is planned within known or potential Ordnance and Explosives (OE) areas. If the DENR determines that the Project is within such an area, then as part of construction plan specifications, the project contractor shall have an U.S. Army-approved plan for OE avoidance, and a trained OE specialist shall perform the avoidance. As part of construction plan specifications and the plan for OE avoidance, the contractor, construction crews, and subcontractors shall be required to stop work and contact the Federal police when ordnance is found. (MM 24)

39. ORDNANCE AND EXPLOSIVES RECOGNITION TRAINING. Construction supervisors and crews shall attend a U.S. Army sponsored OE safety briefing prior to commencement of construction. This briefing shall identify the variety of OE that is expected to exist on the installation and the actions to be taken if a suspicious item is discovered. This requirement for briefing shall be included in construction documents. (MM 25)

40. WILDLIFE RELOCATION. Special-status wildlife species present in the Project area shall be salvaged and relocated from the Project area, in cooperation with USFWS and CDFG. Special-status wildlife species potentially located in the Project area include black legless lizard, coast horned lizard, and Monterey dusky-footed woodrat. A Memorandum of Understanding (MOU) with CDFG shall be obtained to provide for a wildlife biologist authorized to salvage and relocate special-status wildlife species from the construction zone that may be uncovered during earthmoving activities. Recovered individuals shall be placed in appropriate habitat outside of the Project area. (MM 13)

41. SPINEFLOWER SURVEYS. During the appropriate timeframe in the spring following project approval, in consultation with the Directorate of Environmental and Natural Resources Management, the Applicant shall have a survey for Monterey spineflower conducted by a qualified biologist to confirm whether Monterey spineflower occurs on the southwestern portion of the Project site. If Monterey spineflower is not observed on the Project site, no further action shall be required. If Monterey spineflower is observed on the Project site, a seed bank salvage
program shall be prepared to address material retrieval, material storage, and timing and location of future use. (Final EIR MM 11a)

42. RAPTOR SURVEYS. A qualified biologist shall conduct a pre-construction survey of trees located in and within 200 feet of the construction zone to determine if active raptor nests are present if construction is scheduled during the raptor nesting and/or breeding season (generally March 1 through August 1). If active nests are found within the survey area, clearing and construction within 200 feet of the active nest(s) shall be postponed or halted until the nest(s) are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, at the discretion of the biologist. Alternatively, tree removal and other construction activities can be scheduled to avoid the nesting season. Language to this effect shall be included in construction documents. (MM 14)

43. BIOLOGICAL TRAINING. A qualified biologist shall be retained to conduct a contractor education program to inform workers of sensitive biological resources in the area, the potential presence of special-status species and their protected status, work boundaries, and measures to be implemented to avoid loss of these species during construction, prior to commencement of construction. (MM 15)

44. CONSTRUCTION FOOD TRASH. Food-related trash items shall be enclosed in sealed containers and regularly removed from the Project area to avoid attracting wildlife to the Project area during construction. Language to this effect shall be included in construction documents. (MM 17)

45. CONSTRUCTION PET RESTRICTIONS. Pets brought on site by construction workers shall be confined to vehicles or building interiors, or leashed or tethered within areas disturbed by the construction. Language to this effect shall be included in construction documents. (MM 18)

46. PREMISES IDENTIFICATION. Approved numbers or addresses shall be placed on all new and existing buildings and/or signage at the street as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background and be of a minimum four inches in height.

47. TRASH ENCLOSURES. The location of outdoor trash enclosures shall be indicated on Project Improvement Plans. Enclosures shall be constructed and screened in accordance with Section 17.52.080 of the Seaside Municipal Code.

48. CONSTRUCTION PERIOD REVEGETATION PLAN. A Revegetation Plan shall be prepared that provides for revegetation of bare and disturbed ground during construction in order to minimize the spread of invasive exotic species. The Plan shall be prepared and approved by the Public Works Director prior to commencement of grading and shall specify native plants as preferred stabilization materials. (MM 10)

49. LIGHTING PLAN. The Applicant shall prepare a Lighting Plan showing the location, design and materials of all proposed exterior lights (permanent and construction period). The
Plan shall demonstrate that exterior lighting will be designed, positioned, and controlled to direct light downward and minimize light or glare on adjacent properties, minimize intrusion into habitat areas and maintain consistent intensity throughout the Project area. Street and parking lot lighting shall be of low stature and of a full cutoff design or include opaque shields to reduce illumination of the surrounding landscape. The Plan shall be reviewed and approved by the Board of Architectural Review and the Community Development Director prior to issuance of the first building permit for each component identified in the lighting plan. (MM 11)

50. MASTER SIGN PLAN. The Applicant shall prepare a Master Sign Plan showing the location, design, colors and materials of all proposed signage, including off-site project identification and directional signage. Signage shall be in conformance with the City’s sign ordinance (Municipal Code Chapter 15.20) and shall be reviewed and approved by the Board of Architectural Review and the Community Development Director prior to issuance of the first building permit for each project component.

51. EMERGENCY VEHICLE TURNAROUNDS. Streets and linear parking areas shown on the Final Map for any phase of the Project shall either connect at their ends to another street or approved emergency access, or include either a cul-de-sac or hammerhead termination meeting the standards of the City subject to the review and approval of the Fire Chief and Public Works Director, (MM 40)

52. FIRE FLOW. Water system improvements shall be designed to meet fire flow standards as required and approved by the Fire Chief. Evidence shall be submitted to the Community Development Director that proposed water system improvements have been approved by the Fire Chief prior to the issuance of a building permit.

53. FIRE HYDRANTS. The placement of fire hydrants shall be subject to the review and approval by the Fire Chief and Marina Coast Water District prior to issuance of a building permit. Water for structural fire protection during the construction period shall be available by method acceptable to the Fire Chief prior to structural framing of any buildings. The minimum single flow hydrant shall be 1,500 GPM at 20-PSI residual pressure. If fire hydrants are already in place, include civil drawings showing location of these hydrants with the building permit submittal.

54. FIRE HYDRANT LOCATION IDENTIFIER: The Applicant shall ensure that approved ("Blue Dot") fire hydrant location identifiers have been placed in roadways and driveways, as directed by the Fire Department, prior to final inspection and issuance of a certificate of occupancy.

55. AUTOMATIC SPRINKLER SYSTEM REQUIRED. Buildings in excess of 5,000 square feet shall be equipped throughout with an automatic fire sprinkler system. The fire sprinkler system shall be hydraulically designed per National Fire Protection Association (NFPA) Standard #13, 1999 Edition.

56. FINAL REQUIRED FIRE FLOW. Required fire flow may be reduced up to 50 percent in buildings equipped with fire sprinkler systems but, can be no less than 1,500 GPM. Therefore,
the final required fire flow is 1,500 GPM at 20-PSI residual pressure. This flow shall be taken from any two fire hydrants, on or near the site so long as they are spaced at a minimum spacing of 250 feet.

57. TIMING OF REQUIRED WATER SUPPLY INSTALLATIONS. Required Fire Hydrant and Water Supply installations shall be in place, inspected, tested, and accepted by the Fire Department prior to commencement of combustible construction unless otherwise approved in writing by the Fire Chief. Bulk combustible construction materials may not be delivered to the construction site until installations are completed as stated above. Clearance for building permits may be held until installations are completed.

58. LOCATION OF REQUIRED FIRE PROTECTION EQUIPMENT. The location of Fire Hydrants, Fire Sprinkler System(s), Control Valves (PIV/OS&S), Fire Department Connections (FDC) and Fire Alarm Equipment shall be reviewed and approved by the Fire Department prior to issuance of building permits. Permits are required for the installation of private water supply, tank, and hydrant systems and must be issued to contractors prior to the start of installations of such systems.

59. FIRE LANE MARKING. Fire lanes shall be appropriately marked and shall conform to Local Government Standards and Fire Department Standard Details and Specifications.

60. FIRE APPARATUS ACCESS ROADWAYS/DRIVEWAYS. The Applicant shall submit plans for required fire apparatus roadways/driveways for review and approval by the Fire Chief prior to commencement of construction. Required fire apparatus roadway/driveway installations, up through first lift of asphalt, shall be in place, inspected, and accepted by the Fire Chief unless otherwise approved in writing by the Fire Chief prior to the commencement of combustible construction. Bulk combustible construction materials shall not be delivered to the construction site until fire apparatus access installations are completed. During construction, emergency fire apparatus access roads shall be maintained clear and unimpeded. Issuance of building permits may be withheld until installations are completed.

61. STANDARDS FOR PUBLIC IMPROVEMENTS. The Applicant shall construct all public improvements in accordance with the latest City Standards and Specifications. Should the Applicant propose the use of a standard for any improvement that differs from the standards presently in the City’s codes and ordinances, such alternative standard must be presented to and approved by the Public Works Director. The Applicant shall cause Standard Specifications and Standard Drawings to be prepared in a format to be approved by the Public Works Director.

62. CONSISTENCY WITH APPLICABLE AGENCY AND DEPARTMENT REQUIREMENTS. The Project shall comply with the requirements of the Monterey County Health Department and the City.

63. UNDERGROUNDING OF UTILITIES. All new public and private utilities for the Project that are located within APN 031-051-005 (the existing golf course parcel), including utility lines, transformers, cable boxes, telephone facilities, and other such joint trench improvements shall be underground within public utility easements. Relocations, upgrades, or installations of existing
utilities shall be shown on joint trench plans. Cable and telecommunications conduit shall be appropriately sized to accommodate potential future telecommunication or other information conveyance uses. Equipment or facilities that cannot feasibly be placed underground shall be appropriately screened with vegetation or attractive fencing, subject to approval by the Public Works Director. All existing overhead utility lines and poles within the Project site that provide service to the Project site shall be removed and replaced in underground facilities in a manner acceptable to the applicable utility company. No pad-mounted transformer pedestals will be allowed.

64. WATER AND SEWER SYSTEM IMPROVEMENTS. The Applicant shall enter into a “Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement” with MCWD. Said agreement shall set forth the general and specific terms for provision of water, sewer and reclaimed water service to the Project including design and construction of improvements, metering of use, payment of fees, permits and easements, inspection, and conditions of service. Improvement Plans for water, sewer, and reclaimed water facilities shall be prepared and signed by a registered civil engineer licensed by the State of California and reviewed and approved by Marina Coast Water District ("MCWD") and the California Department of Health Services prior to the recordation of the Final Map for that phase.

65. USE OF ALTERNATE WATER SOURCE WHEN AVAILABLE ADJACENT TO SITE. The Applicant shall design and construct landscape irrigation systems so they can be readily converted to use an alternate water source when an alternate water source becomes available adjacent to the site.

66. RECLAIMED WATER. Landscape irrigation systems shall be designed and installed by the Applicant utilizing American Water Works Association (AWWA) pipe for use in reclaimed water systems, connected with a backflow preventer to a potable water system. The system shall be designed to applicable standards and in such a way that should reclaimed water become available for irrigation, the disconnect from the potable water system to the reclaimed water system can be accomplished at minimal cost to the property owner, property owners' association, or homeowners' association. Upon conversion of the irrigation piping to a reclaimed or other non-potable water source, the irrigation system shall be completely independent of the potable system, and no connections between the two systems shall exist. This irrigation design shall be included in the Project Improvement Plans prepared prior to approval of the first building permit, subject to review and approval of the Community Development Director, the Manager of the Marina Coast Water District, and the Monterey County Department of Environmental Health. (MM 46)

67. WATER CONSERVATION AND METERING. Water connections shall be metered as required by section 3.36.030(W) of the MCWD ordinances. Water fixtures installed in structures shall be low-flow designs that comply with the requirements of the City's Water Conservation Ordinance and Chapter 3.36.030(S) of the MCWD ordinances. Water conservation devices required by the City and MCWD include shower and faucets flow restrictors (2.5 gallons per minute), ultra low flow flush toilets (1.6 gallons per flush) and insulated recirculating hot water systems. Landscape irrigation shall use low flow irrigation devices consistent with the state of the
art for landscape irrigation systems. Landscape irrigation plans shall be approved by MCWD and the Public Works Director prior to being installed. The Public Works Director shall monitor annual water reports from the MCWD indicating the amount of water consumed by the Project.

68. GRADING PLANS. Grading plans shall be prepared and signed by a registered civil engineer licensed by the State of California. Grading plans shall be prepared and implemented in conformance with the Uniform Building Code and Chapter 15.32 of the Municipal Code. Grading plans shall demonstrate that grading will complement surrounding topography, minimize habitat disturbance and utilize landform grading techniques to the greatest extent feasible and shall be reviewed and approved by the Public Works Director and the Building Official prior to commencement of grading or site preparation activities. (MM 9)

69. GRADING LIMITS. Prior to commencement of grading, grading limits shall be temporarily delineated (e.g., staked or flagged) to avoid inadvertent removal of plants or habitat degradation of areas not proposed for grading and construction. No earthmoving, dumping of spoils, storage of construction materials, staging of equipment, or disposal of construction-related spoils shall be allowed outside the delineated area. (MM 16)

70. GEOTECHNICAL REPORT. The Applicant shall have a engineering geotechnical report prepared to address site preparation measures and foundation designs appropriate to the potential dynamic densification characteristic of project site soils subject to the review and approval of the Public Works Director. The report shall include, but not be limited to clearing and site preparation, reworking sub-grade preparation, fill material, compaction, backfill, cut and fill slope drainage and percolation. (MM 22)

71. ELEVATION SURVEY. The Applicant shall provide to the Public Works Director a stamped, signed elevation and property line survey prepared by a licensed land surveyor prior to the issuance of a grading or building permit.

72. EROSION CONTROL. Prior to the issuance of a demolition, grading or building permit, Improvement Plans, including Erosion Control Plans, shall be submitted for approval to the public Works Director. The Improvement Plans shall include design of the storm water drainage system to prevent the flow of mud or dirt from the Project site onto adjacent properties, and demonstrates that measures will be taken to ensure that on-site drainage systems are designed to capture and filter out urban storm water pollutants to the extent feasible. To implement this condition, the Applicant shall, prior to the issuance of a demolition or grading permit, prepare a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the Clean Water Act, and the applicable NPDES Storm Water Permit and an Erosion Control Plan. Before initiation of demolition or grading, the Applicant shall implement the provisions of the SWPPP and the Erosion Control Plan. (MM 22)

73. NPDES PERMIT. The Applicant shall file a Notice of Intent with the State Water Resources Control Board and submit proof of receipt of a National Pollution Discharge Elimination Systems (NPDES) permit, prior to the issuance of a demolition, grading or building permit, pursuant to the Federal Clean Water Act and shall prepare the associated Storm Water
Pollution Prevention Plan (SWPPP) and comply with best management practices set forth in the SWPPP. (MM 28)

74. DRAINAGE PLAN. Drainage facility plans and hydraulic calculations for the Project shall be prepared and signed by a registered civil engineer licensed by the State of California and reviewed and approved by the Public Works Director prior to issuance of a grading permit. Increases in storm water runoff attributable to the Project shall be retained and percolated within the golf course parcel. Storm water retention and percolation systems shall be designed for a 100-year storm event. Storm drain inlets shall incorporate filtration devices. Percolation tests shall be required at each infiltration site. All aspects of the Drainage Plan shall be approved by the Public Works Director prior to approval of the Final Map for the affected area.

75. STORM WATER SYSTEM MAINTENANCE. The Applicant shall be responsible for maintenance of the storm water drainage improvements shown on the vesting tentative map on a regular basis, to remove pollutants, reduce high pollutant concentrations, prevent clogging of the public storm water drainage system, and maintain the catch basins sediment trapping capacity. The Applicant, its successors or assigns (HOA, facility operator, and/or owner) shall perform an annual inspection and submit a certificate of compliance from a registered Civil Engineer certifying that all storm drain facilities are properly maintained. Such certificate of compliance shall be submitted to the Public Works Director on September 1st of each year. Deficiencies, if any, shall be corrected prior to October 1st, to the satisfaction of the Public Works Director.

76. SEWER COLLECTION PIPES. The Applicant shall prepare a final engineering study to determine the need for upgrades of sewer collection pipes serving the Project subject to the review and approval of the Marina Coast Water District. If the study indicates that the collection pipes are inadequate to accommodate anticipated daily or peak flow, the Applicant shall construct new or supplemental lines in those areas where the capacity is not adequate, subject to reimbursement from other beneficiaries (MM 45).

77. PARKING RESTRICTIONS. Parking shall not be allowed in areas that would impede emergency vehicle access as determined by the Fire Chief.

78. ALTERNATIVE TRANSPORTATION MEASURES. The Applicant shall incorporate the following measures into final Project designs to promote alternative modes of transportation to, from and within the Project:

   a) Prior to issuance of a certificate of occupancy for the hotel, the Applicant shall provide bicycle racks at the main hotel, providing no fewer than 15 bicycle parking spaces,

   b) Prior to issuance of a certificate of occupancy of each timeshare parcel, a sidewalk or pedestrian path shall be constructed to connect the timeshare units in Timeshare Parcel A and B to the clubhouse and hotel, and the timeshare units in Timeshare Parcel C with the path along McClure Way,
c) Prior to issuance of a certificate of occupancy for the hotel, the Applicant shall construct a bus turn out and associated street and curb improvements, a covered shelter, and a bench, to be located on the west side of General Jim Moore Boulevard immediately south of McClure Way, and a path connecting the bus turn out to the entrance of the remote parking lot. The Applicant shall construct the bus turn out in conformance with designs approved by the Public Works Director and constructed in conformance with Monterey-Salinas Transit District and City of Seaside standards.

d) Concurrently with the filing of the Final Map for the residential component of the Project between the detention basin and Lot 87, and Lots 30 and 33, the Applicant shall dedicate adequate right-of-way on the east side of Monterey Road along the Monterey Road frontage of said residential components for the provision of a bicycle lane.

e) Prior to construction of the western residential areas that take access from Monterey Road, the Applicant shall provide a right-of-way for a sidewalk or pedestrian pathway on the east side of Monterey Road along the Monterey Road frontage of said western residential areas, or construct crosswalks and advance signing on Monterey Road at the southernmost residential street intersection with Monterey Road, and at the intersection of Nouroa Road and Monterey Road, and

f) Prior to issuance of a certificate of occupancy, the Applicant shall provide shower facilities at the hotel, available for use by employees. (MM44)

79. WORK WITHIN PUBLIC STREETS AND RIGHTS-OF-WAY. Improvements made to public streets or within public rights-of-way shall require encroachment permits and shall be designed and constructed based on City Standards as determined by the Public Works Director, and shall be subject to prevailing laws including payment of prevailing wages.

80. LEVEL OF SERVICE (LOS) MONITORING OF INTERSECTIONS. The Applicant shall cause a signal warrant analysis to be prepared for the General Jim Moore Boulevard/McClure Way, General Jim Moore Boulevard/Coe Avenue, and Fremont Boulevard/Del Monte Boulevard intersections to determine, based on the standard Caltrans analysis methodologies then in effect, whether signal lights are warranted at those intersections, or additional turn lanes are warranted at the Fremont Boulevard/Del Monte Boulevard intersection. The signal warrant analyses shall be prepared one-year after the opening of the hotel, and every three years thereafter not to exceed 4 signal warrant analyses. If at the time the determination is made that such improvements are required, funding for the improvements has been provided by inclusion in FORA’s CIP fee program or a City Assessment District, or by another established funding mechanism, no payment shall be required of the Applicant or its successor(s). If funding for said improvements has not been provided by these programs, the Applicant or its successor(s) shall pay a pro rata share of the cost of the improvements, based on the pro-rata percentages in the traffic fee analysis prepared by Fehr and Peers Associates, within six months of a determination that the improvements are warranted. (MM48)
81. **ADA COMPLIANCE AND DISABLED ACCESS.** The Project shall comply with all applicable requirements of the Americans with Disabilities Act.

82. **FOREST MANAGEMENT.** A Tree Removal and Replacement Plan shall be prepared for each Final Map phase of construction and shall be reviewed and approved by the Community Development Director. The recommendations of the Forest Management Plan in the Project EIR shall be reflected in this Plan, as well as in construction documents. The plan shall identify specific grading limits and building footprint siting that minimizes tree removal and may be integrated into Final Landscape Plan(s) for the Project. The Applicant shall arrange for a registered forester to observe grading and foundation preparation operations, and to assist in field adjustments of building and street locations to minimize tree removal and ensure the health of remaining trees. (MM 5, 6, 7)

83. **TREE REMOVAL, SALVAGE AND RELOCATION.** The Final Landscape Plan(s) shall provide for an accounting of the total number of oak trees removed and/or salvaged and relocated. The accounting shall be prepared by a qualified arborist that is selected by the Applicant, which selection shall be approved by the Community Development Director and paid for by the applicant. Unless otherwise approved by the Community Development Director, the applicant shall be responsible for replacement of trees removed on a 1:1 basis. If the arborist determines that in the context of the Project Final Landscape Plan(s) it is not feasible to replace on a 1:1 basis, the Applicant shall pay to the City a fee of $300 for each tree removed from the Project site and not replaced or salvaged and relocated. The City shall use the fee to further the goals and objectives of the City General Plan and the Fort Ord Reuse Plan. Final Landscape Plan(s) shall include a mix of 5-gallon, 15-gallon and 24” (minimum) boxed trees, with the size designations depicted on the Plan(s), and accounted for in a tabular form. The Applicant is hereby encouraged to salvage and relocate oak trees that would otherwise be lost to locations determined appropriate by the Final Landscape Plan(s) to achieve a more mature appearance to the Project landscape in critical locations at the time a certificate of occupancy is issued for the hotel. Locations deemed appropriate for such relocation include, but are not limited to, the hotel site, the timeshare sites, the entries to residential neighborhoods, the employee/overflow parking area near the intersection of McClure Way and General Jim Moore Boulevard and along the McClure Way Project access driveway.

84. **TREE REPLACEMENT.** Replacement and/or salvaged and relocated trees shall be inspected two and five years following planting, and if not in good health and vigor in the judgment of a qualified arborist, replaced by the Applicant, its successors or assigns, in kind with new trees of the same size and type. Replacement trees shall likewise be inspected at two and five years following planting, and are subject to the same replacement requirements should they fail to survive.

85. **PLANT PALETTE.** The Final Landscape Plan(s) shall utilize drought tolerant species as defined under “Xeriscape” in MCWD Ordinance 1.04.010, and as required by Municipal Code section 17.50, and non-invasive species (defined as any plant not listed on California Exotic Pest Plant Council's List A, B, or Red Alert, in their Exotic Pest Plants of Greatest Ecological Concern, October 1999). The Community Development Director shall review and approve the
Final Landscape Plan(s) prior to installation of any landscaping to ensure this condition is satisfied.

86. IRRIGATION UNDER OAK TREES. To protect against root or crown rot diseases, only drought tolerant plants shall be planted within the drip line of existing oak trees. Final Landscape Plan(s) shall provide that irrigation in these areas shall only be allowed on a monthly basis until plantings are established and can survive without irrigation. No irrigation shall be allowed within ten feet of the trunk.

87. WORK AROUND OAKS. Removal and/or substantial limbing of coast live oak trees and associated duff (accumulated organic material) and removal of under story native plant species within oak woodland habitat shall be avoided, to the greatest extent feasible, to minimize disturbance to Monterey dusk-footed woodrat habitat, and removal and/or disturbance to open sandy areas shall be avoided to minimize disturbance to potential black legless lizard and coast horned lizard habitat. Language to this effect shall be included in construction documents. The Applicant shall arrange for a registered forester and/or biologist to observe grading and foundation preparations around oak trees, and to assist in field adjustments of building locations to minimize habitat removal. (MM 12)

88. PREVAILING WAGES. The Applicant, its successors and assigns shall cause the contractor(s) and subcontractor(s) to employ local workers, grant local preferences and pay not less than prevailing wages in the construction of the Project as required by Section 3.2.100 of the FORA Master Resolution, as those wages are determined pursuant to California Labor Code Section 1720 et seq. and the implementing regulations of the California Department of Industrial Relations.

89. FIRST SOURCE HIRING. The Applicant, its successors and assigns, project tenants and operators shall comply with the City’s First Source Hiring Program.

APPLICABLE TO VESTING TENTATIVE SUBDIVISION MAP – TM-01-03

90. FINAL SUBDIVISION MAP(S). The Applicant may file phased final subdivision maps ("Phased Final Maps") for the property depicted on the Vesting Tentative Map for the Project, which upon approval by the City, shall be recorded by the Applicant with the Clerk of the County of Monterey. The number of Phased Final Maps shall not exceed three (3) and the specific phasing of those Phased Final Maps shall be noted on the first sheet of the approved version of the Vesting Tentative Map. Each Final Map shall be in substantial conformity with the approved vesting tentative map, and shall be filed prior to the expiration of the Vesting Tentative Map, or any extension thereto.

91. IMPROVEMENT PLANS. Improvement Plans for each phase of the Project shall be prepared and signed by a registered civil engineer licensed by the State of California and reviewed and approved by the Public Works Director prior to the City Council approval of the first Final Map for that phase. All facilities shall be constructed in conformance with the approved Improvement Plans and with the requirements of the Subdivision Agreement.
Improvement Plans and construction may be phased, subject to the review and approval of the Public Works Director.

92. SUBDIVISION IMPROVEMENT AGREEMENT. Prior to the recordation of the first Phased Final Map for subdivision of any portion of the Project site, the City and the Applicant shall, pursuant to Government Code Section 66462, prepare and execute a single Subdivision Improvement Agreement covering the entire subdivision. The Subdivision Improvement Agreement may include provisions for the initiation and consummation of proceedings under an appropriate special assessment act or the Mello-Roos Community Facilities Act of 1982 for the financing and completion of some or all of the improvements consistent with the provisions of Project Condition No. 17 above. All costs associated with preparation of the Subdivision Improvement Agreement shall be the responsibility of the Applicant, and the Applicant shall reimburse the City for the costs incurred by the City in the reviewing and approving the Subdivision Improvement Agreement. The Subdivision Improvement Agreement shall describe the obligations and responsibilities of the Applicant including the following:

a) To construct the public facilities described in the Improvement Plan for each phase in substantial conformance with the Vesting Tentative Subdivision Map, and the conditions herein. The Applicant shall also retain a qualified registered civil engineer to observe, inspect, and review the installation and construction of all private improvements for conformance and compliance with the approved plans and specifications. Upon completion of the development, the engineer shall complete and submit a report of compliance including certification of all test results to the Public Works Director;

b) The furnishing of security to secure the performance of the agreement (performance, labor and material bond) in the amounts of 100% of the estimated cost of the improvements and guarantee and warranty of the work the amount of 50% of the original estimated cost of improvements unless, with respect to the hotel parcel, a different percentage is specified in the DDA. The form of the security shall be one of those authorized by Government Code Section 66499, subject to the approval of the City. In addition, pursuant to Government Code Sections 66499.3 (d) and 66499.9, security shall also be provided to guarantee and warranty the work for a period of one year following the completion and acceptance thereof against any defective work or labor done, or defective materials furnished, to cover changes or alterations of the work, not to exceed 10 percent of the original estimated cost of the improvement, and to pay for costs and reasonable expenses and fees, including reasonable attorney’s fees to administer and enforce the provisions of the Subdivision Improvement Agreement;

c) To establish a Homeowners Association for the residential areas of the Project and a Property Owner’s Association for the Timeshare components, and to pay all costs associated with the creation of the associations;

d) To prepare and record Covenants, Conditions, and Restrictions (CC&Rs)
which obligate each homeowners association to provide for maintenance of the shared facilities, improvements, and landscaping within the boundaries of the associations in perpetuity. The CC&Rs shall describe the homeowners association and the City’s responsibilities and rights, and shall be subject to the approval of the City prior to recordation. The CC&Rs for each homeowners association shall require the homeowners associations to annually prepare and submit to the City Manager or his or her designee, a capital assessment and reserve study showing the amount of money reserved for future anticipated maintenance and replacement expenses of the Association, so as to allow the City to monitor the financial viability of the homeowners association and its ability to properly fund and maintain the improvements owned by that homeowners association. The CC&Rs shall include provisions that if the City determines that the association has ceased to exist, has ceased to maintain the association’s property at a level acceptable to the City, as determined by the City’s Public Works Director, or has failed to maintain the property consistent with the terms of the CC&Rs or these Project Conditions, that the City shall have the right to fund the necessary maintenance activities through the formation of an assessment district or by the forfeiture of association funds to the City; and

e) To implement applicable provisions of the Mitigation Monitoring and Reporting Program.

93. REVISED VESTING TENTATIVE MAP. Prior to submittal of the Vesting Tentative Map application to the City Council, the Applicant shall cause to be prepared a revised Vesting Tentative Map which incorporates changes required by these Project Conditions and other technical modifications as may be required by staff.

94. OFFERS OF DEDICATION. The Applicant shall make irrevocable offers of dedication of each area of privately held land over which a public right-of-way is required for conformance to the City’s circulation plan and City Standards, as determined by the Public Works Director. Such offers of dedication shall be described in detail on the Final Map(s) and Improvement Plans. Acceptance of the dedications by the City Council shall be subject to the Applicant’s adequate completion of the Project’s public facilities as determined by the Public Works Director.

95. EASEMENTS. Easements for public improvements including but not limited to sanitary sewers, water mains and other public utilities shall be shown on the Final Subdivision Map. The location and width of each easement shall be subject to the approval of the applicable public agency, public utility, and the Public Works Director. Prior to issuance of any building permit, the property owner shall execute covenants, conditions, and restrictions and/or reciprocal easement agreements for access, parking, utilities, landscaping, security, safety, and maintenance as appropriate among the parcels shown on the Vesting Final Subdivision Map(s). The instruments shall be subject to review and approval by the City Attorney or designated special counsel.

96. PRIVATE STREETS EASEMENTS. Roadway easements for the creation and use as
private streets shall be shown on each recorded Final Map for those roadways shown on the Vesting Tentative Map that are designed and intended as private streets and not to be dedicated as public streets. Easements shall provide the right of vehicular and pedestrian travel and ingress and egress for each property abutting the roadway easement and each property within the homeowners association to be formed to maintain the roadway easement. The roadway easements shall run with the appurtenant land and shall remain in full force and effect until the easement is offered for dedication by the underlying property owners and accepted by the City as a public street. Each homeowners association that is formed to own and maintain the applicable roadway easement shall, at its own cost and expense, keep and preserve the roadway easement as a private street and at all times keep such easements in a good condition of repair and maintenance and clear of obstructions. Each homeowners association shall neither erect nor authorize others to erect any improvement of any kind within said easement, except access control gates, that might interfere in any way with the proper maintenance, use, repair, reconstruction, and patrolling of the roadway easement. Each roadway easement that is designated as a private street shall also be offered for dedication to the public as a public street and such offers shall be provided on each applicable Final Map. These offers of dedication shall be rejected by the City at the time the Final Map is approved but pursuant to applicable law and to the extent of such law, shall remain open for acceptance by the City in the future if the City finds such a dedication to be warranted and appropriate at that future point in time.

97. PRIVATE STREET DESIGN STANDARDS. The design and construction of privately owned and maintained streets within residential subdivisions may deviate from the standards for public subdivision streets with respect to right-of-way width, travel lane width, paved surface, on-street parking, curb and gutter design (e.g. vertical curb, rolled curb, vee gutter), sidewalks and street lighting, provided that the proposed streets will not be offered for dedication to the City as public roads to be maintained by the City; resident and guest parking requirements for residences within the subdivision are met; that the design of the streets meets access (vehicular and pedestrian), travel and turnaround requirements for emergency vehicles; and that the design of the streets creates a more aesthetically or environmentally desirable subdivision design, in accordance with Seaside Municipal Code section 16.24.050(C), and the approval of the Fire Chief, Public Works Director and Community Development Director.

98. TREE PRESERVATION IN PRIVATE STREET DESIGN. To the extent practical, private streets shall be designed to avoid or minimize the loss of trees, though adjustments to location or width, or by splitting portions of the road into one-way couplets, or other means as feasible subject to the review and approval of the Public Works Director.

99. MAP NOTE REQUIRING UNDERGROUNDING OF UTILITIES. The Final Map and Improvement Plans shall include a note that states: "Underground utilities are required in this subdivision."

APPLICABLE TO HOSPITALITY COMPONENTS – SPR-01-03, UP-01-20, UP-04-22

100. REVOCATION. Conditional Use Permit UP-01-20 for timeshare development and Conditional Use Permit UP-04-22 for on-sale of alcoholic beverages at the hotel are subject to revocation procedures contained in Section 17.70.090 Seaside Municipal Code. The permits shall
run with the land and may be revoked by the City at any time for violation of the terms or conditions of the permits by the Applicant, agents, or representatives of the Applicant, their assignees and successors in interest.

101. PLAN FOR COORDINATION OF RESORT AND GOLF COURSE OPERATIONS. The Applicant shall enter into an agreement with the City and golf course operator setting forth principles and procedures for coordination of ongoing resort and golf course operations prior to commencement of construction, subject to the approval of the City Manager.

102. APPROVAL OF EXTERIOR MATERIALS AND COLORS. The Applicant shall return to the Board of Architectural Review for final approval of exterior materials and colors prior to issuance of building permits for the hotel and timeshare components. The exterior building materials and colors shall be installed in compliance with the materials board stamped “Received July 12, 2004 Seaside Community Development, 2004,” or as modified by the Board of Architectural Review.

103. APPROVAL OF STONE. The stone to be used on the façade, chimneys and other features of the hotel, timeshare buildings, golf clubhouse building and entry and signage features associated with the Project shall be authentic natural stone and shall be reviewed and approved by the Board of Architectural Review prior to issuance of a building permit those buildings.

104. FINAL LANDSCAPE PLAN(S). The Final Landscape Plan(s) for the hotel and timeshare components shall be in substantial conformance with the Landscape Concept Plan sheet L 1.0 dated April 2003. The Plan shall be reviewed and approved by the Board of Architectural Review and Community Development Director prior to issuance of the first building permit for the Project. Project Conditions related to tree protection, replacement, salvage, and relocation and maintenance elsewhere in these Project Conditions may be satisfied by incorporation within the Final Landscape Plan(s).

105. FENCING PLAN. Prior to the issuance of building permits for the hotel or timeshare, the Board of Architectural Review shall review and approve a final fencing plan.

106. EMPLOYEE PARKING AREA LANDSCAPE. The Final Landscape Plan(s) for the hotel and timeshare portion of the Project shall also address the employee parking area adjacent to General Jim Moore Boulevard. An earth berm no less than four feet (average) in height and/or a vegetative buffer shall be provided between the overflow parking lot and General Jim Moore Boulevard, utilizing drought tolerant plant species native to the Monterey Bay region. The plantings shall be installed prior to the use of the parking lot, and shall provide no less than fifty percent screening of the parking lot and parked cars, as viewed by passers-by on General Jim Moore Boulevard, within a five-year time frame of the date of occupancy. (MM 3)

107. TIMESHARE AREA "C" VEGETATION MAINTENANCE. No trees in the existing dense row of Monterey Cypress trees between the Timeshare Area "C" and the overflow parking area west of General Jim Moore Boulevard shall be cut or trimmed in any manner during construction or operations of the Project, except to the extent that may be required to remove dead or diseased wood, or remove safety hazards, subject to the review and approval by the
Public Works Director. If substantial cutting or trimming is required, a landscaping plan shall be submitted and implemented to maintain the screening of existing trees. (MM 4)

108. PARKING DESIGN. Parking stalls and drive aisles shall be constructed in accordance with City standards, unless modified by the Public Works Director in accordance with Section 17.48.020(Q) of the Municipal Code.

109. NEW WATER LINE FOR FIRE FLOW. The Applicant shall construct a new water line to the hotel site via General Jim Moore Boulevard and McClure Way, or another route as determined by the Marina Coast Water District, from a suitable point of connection to the Marina Coast Water District system subject to the review and approval of the Marina Coast Water District, Fire Department, and Public Works Department. The water line shall be sized to provide adequate fire flow at the hotel, in accordance with Uniform Fire Code and/or California Fire Code. Refer to Life Safety Project Condition. The Applicant shall obtain encroachment permits as necessary from the Army Department of Public Works and/or City, as applicable. (MM 47)

110. LIFE SAFETY PLAN. The Applicant shall prepare a Life Safety Plan for the hotel and timeshare buildings prior to completion of final design and issuance of building permits. The plan shall address fire flow requirements, fire control systems, design of fire apparatus and fire fighter ingress and egress, evacuation plans, applicable requirements of the California Fire Code and other related topics as may be required by the Fire Chief. The Life Safety Plan may incorporate and modify the requirements of other Project Conditions related to fire protection of the hotel and timeshare buildings, subject to approval of the Fire Chief.

111. EMERGENCY PROCEDURES INFORMATION. Emergency procedure information shall be posted in a conspicuous place in every room available for rental in the hotel and timeshare units in accordance with California Health and Safety Code section 13220(b).

112. FIRE APPARATUS ACCESS TO BUILDINGS/LANDSCAPING REQUIREMENTS. Landscaping shall not obstruct Fire Department ladder access to buildings. Building Permit submittals shall include a Final Landscape Plan(s) that reflects the location of all landscaping within 50' of buildings. The plan shall show how Fire Department ladder access will be provided around all buildings. Provide approved walkways on all sides of the buildings leading from the fire access roadway to the exterior building entrances.

113. FIRE APPARATUS ACCESS TO BUNGALOWS. Adequate fire apparatus access shall be provided to within 150 feet of each hotel bungalow building. A paved road, pathway, paving blocks, or other suitable surface may provide fire apparatus access. The access shall provide sufficient width, turning radius, ingress, and egress, and support in a manner that is reviewed and approved by the Fire Chief.

114. EMERGENCY VEHICLE ACCESS TO MAIN HOTEL BUILDING. A fire lane or fire engine parking area, as determined by the Fire Chief, shall be provided to allow unencumbered fire fighting access to the main hotel building.
115. BUILDING EMERGENCY ACCESS KEY BOX REQUIRED. Hotel, timeshare, and golf clubhouse buildings shall be equipped with permanently installed emergency access key lock boxes (Knox), conforming to Seaside Fire Department Standard Detail and Specifications. The key to the lock box shall match those of other boxes utilized by the City.

116. PERSONAL SECURITY REQUIREMENTS. Hotel and timeshare rooms/units, shall have locks using combinations that are interchangeable with locks used in all other separate units. Re-programmable electronic keys may be used. Doorjambs shall be installed with solid backing in such a manner that no voids exist between the strike side of the jamb and the frame opening for a vertical distance of six (6) inches each side of the strike. In wood framing, horizontal blocking shall be placed between studs at door lock height for three (3) stud spaces each side of the door openings. Trimmers shall be full length from the header to the floor with solid backing against sole plates. Doorstop on wooden jambs for in-swinging doors shall be of one-piece construction with the jamb. Jambs for all doors shall be constructed or protected so as to prevent violation of the strike. The strike plate for deadbolts an all wood framed doors shall be contracted of minimum sixteen (16) U.S. gauge steel, bronze or brass and secured to the jamb by a minimum of two screws, which must penetrate at least two (2) inches into solid backing beyond the surface to which the strike is attached. Hinges for out-swinging doors shall be equipped with non-removable hinge pins or a mechanical interlock to preclude removal of the door from the exterior by removing the hinge pins.

117. ALCOHOLIC BEVERAGE SIGNS. No display of alcoholic beverage signs shall be permitted on the exterior of the building.

118. ON-SITE ALCOHOLIC BEVERAGE CONSUMPTION. Alcoholic beverages shall be sold or dispensed for consideration for consumption on the premises only in accordance with the terms and conditions of the license issued by the State of California Alcoholic Control Board.

119. ALCOHOLIC BEVERAGE EMPLOYEE TRAINING. Managers and employees involved in the serving of alcoholic beverages at the hotel or other points of sale of alcoholic beverages shall undergo an awareness training program for the service of alcoholic beverages sponsored by the State Department of Alcoholic Beverage Control prior to the opening of business. All subsequent employees must complete the training within 180 days of hire.

120. DUAL USE PEDESTRIAN/BICYCLE PATHWAYS. The Applicant shall install a pedestrian/bicycle pathway connecting the hotel with the bus stop and the regional bicycle path south of the intersection of General Jim Moore Boulevard and McClure Way, with the reconstructed golf clubhouse building, and with the timeshare units to create a pedestrian-friendly environment. Pathway routing shall be shown on the Vesting Final Subdivision Map and Project Improvement Plans and is subject to approval by the Community Development Director.

121. SPECIAL EVENTS TRANSPORTATION PLAN. The Applicant shall prepare a special events transportation demand management plan for the hotel to address the following, subject to
the review and approval of the Community Development Director and Public Works Director, prior to issuance of a certificate of occupancy for the hotel.

a) Strategies for reducing parking demand during special events, and strategies for accommodating excess demand for parking during special events,

b) Procedures for implementing the strategies, including arrangements with off-site parking lot owners for the provision of alternative parking locations, arrangements with bus or shuttle providers, and publicizing implementation of the strategies, and

c) Thresholds for implementation of the strategies, which shall be no less stringent than a projected 95 percent occupancy of the parking lots at any time during a day, and considering all expected uses and events. (MM 43)

122. SITE 33. No building or grading permit shall be issued for the construction of timeshare facilities within Site 33 until the remediation program set forth in the US Army Directorate of Environmental and Natural Resources Management letter dated December 13, 2002 is completed as certified in writing by the California Department of Toxic Substance Control (DTSC), and the covenant executed by the Army on March 10, 2004 has been removed. (MM 26 and 27)

123. GOLF MAINTENANCE BUILDING REPLACEMENT. A permit application for a replacement golf maintenance building shall be on file with the City prior to the issuance of a building permit for timeshare buildings in Timeshare Parcel A.

124. EMERGENCY VEHICLE ACCESS FROM GOLF MAINTENANCE FACILITY. A suitable emergency vehicle access shall be provided between the golf maintenance facility and Timeshare parcel A, subject to the review and approval by the Fire Chief.

125. DEPARTMENT OF REAL ESTATE DOCUMENTS FOR TIMESHARE COMPONENT. The Applicant shall submit concurrently to the City the application forms, agreements and documents that are required to be submitted to the California Department of Real Estate, as provided by Section 17.43.090 of the Municipal Code. Prior to the Applicant’s submittal of the following agreements to the California Department of Real Estate, the Applicant shall submit copies of such documentation, as applicable, to the City for review and determination by the City Attorney that the documentation is consistent with the City’s conditions of approval for the timeshare component as set forth in these Project Conditions: the declaration of covenants, conditions, and restrictions (CC&Rs), articles of incorporation, bylaws, maintenance agreements, management agreements, membership or license agreements, and reservation system affiliation agreements for the timeshare project. Upon the Applicant’s receipt of “deficiency” or completeness” application letters and conditional or final subdivision public reports for the timeshare project from the California Department of Real Estate, the Applicant shall submit such documents to the City. No timeshare interests in a timeshare project shall be sold or offered for sale until after the earlier of the California Department of Real Estate’s issuance of a conditional or final subdivision public report authorizing the sale or offering for sale of timeshare interests in
the timeshare project, or such other authorization for sale or offering for sale of timeshare interests in the timeshare project as provided under California law.

**APPLICABLE TO RESIDENTIAL COMPONENT – UP-01-19**

126. REVOCATION. Conditional Use Permit UP-01-21 for residential lots is subject to revocation procedures contained in Section 17.70.090 of the Municipal Code. This permit shall run with the land and may be revoked by the City at any time for violation of the terms or conditions of this permit by the applicant, agents or representatives of the Applicant, their assignees, and successors in interest.

127. HOMEOWNERS’ ASSOCIATION. A homeowner’s association including all residential lots shall be formed to own and maintain, the private streets, curbs, gutters, sidewalks, exterior lighting, and common areas within the residential subdivision as shown on the vesting tentative map and Final Map(s). The homeowners’ association shall consist of a master association, and may include separate sub-associations and shall be formed prior to the retail sale of any residential lots pursuant to the requirements of the California Department of Real Estate.

128. RESIDENTIAL CC&R’S AND DESIGN GUIDELINES. The Applicant shall prepare detailed CC&R’s and design guidelines applicable to the residential component of the Project, and tailored to the particular residential development areas. These documents shall be prepared prior to recordation of Final Maps that create lots within any residential development area, subject to the review and approval of the Community Development Director.

129. SUPPLEMENTAL DESIGN REVIEW – HOMES ON RESIDENTIAL LOTS. Building plans for individual homes subsequently built on residential lots shall be subject to design review by the Board of Architectural Review in accordance with applicable requirements of the Municipal Code then in effect.

130. RESIDENTIAL FENCING AND LANDSCAPE CRITERIA. Fencing shall be designed to blend with the natural vegetation of the residential project sites, and to reduce opportunities for graffiti. A landscape buffer of no less than 10 feet shall be included between fences and the adjacent public street rights-of-way, utilizing drought tolerant plant species native to the Monterey Bay region. The fence and landscape designs shall have a consistent style for all residential areas. The CC&R’s for the residential areas shall include provisions to require that fences and landscape buffers be maintained in accordance with the fencing and landscape plan. Buffer area landscaping and any proposed fencing shall be installed prior to initial occupancy of each dwelling. (MM 1)

131. MONTEREY ROAD AND COE AVENUE FRONTAGE IMPROVEMENTS. The applicant shall construct frontage improvements, including half street section, curb, gutter, drainage, and sidewalk, where the Project abuts Monterey Road or Coe Avenue, in accordance with City standards and plans. These improvements shall be included in the Subdivision Agreement and Subdivision Improvement Plans, subject to the review and approval of the Public Works Director.
132. U.S. ARMY EASEMENT. Prior to approval of a Final Map for the residential subdivision near General Jim Moore Boulevard, the Applicant shall submit evidence of an easement agreement with the U.S. Army to provide access to the subdivision from General Jim Moore Boulevard.

133. NO GATES AT ENTRANCE TO PRIVATE STREETS. Private streets in the residential areas shall not be gated but shall incorporate columns, entry features and signage to denote the entry to the private streets. EMERGENCY-OR-GATE-KEY BOX REQUIRED—Gates at entries to private streets shall be equipped with a permanently installed emergency access key lock box (Knox), conforming to Seaside Fire Department Standard Detail and Specifications. Gates shall include a by-pass capability to allow access in the event of power outage. Switches shall match the standard access keys utilized by the Fire and Police Departments for other gates in the City.

134. NOISE ATTENUATION. Subject to the review and approval of the City of Seaside Community Development Director, the Applicant shall have a qualified acoustical engineer, or other qualified professional prepare a noise attenuation plan to reduce exterior noise to no more than 55 dBA Ldn at residential lots abutting Monterey Road or Coe Avenue. Such attenuation may include provision of a minimum six-foot tall solid fence or wall at the property line abutting the Monterey Road or Coe Avenue, or relocation of lots farther from Monterey Road or Coe Avenue. The noise attenuation plan shall be included in Subdivision Improvement Plans, subject to the review and approval of the Public Works Director, prior to approval of the Final Map for the affected development phases. (MM 31)

135. STATE HOUSING LAW. The Project shall comply with the applicable State Housing Law building standards as published in the California Code of Regulations, Title 24, known as the California Building Standards Code.

APPLICABLE TO GOLF COURSE MAINTENANCE FACILITY AND CLUBHOUSE

136. SUBSEQUENT APPLICATION -- GOLF COURSE MAINTENANCE FACILITY DESIGN CRITERIA. The golf course maintenance facility and parking lot shall be designed to minimize visibility from Monterey Road, while maintaining mature coast live oak trees to the maximum extent feasible. Exterior colors shall be selected to blend rather than contrast with the naturally occurring colors of the landscape. The light reflective value of exterior building colors shall not exceed 45. (MM 2) Board of Architectural Review approval will be required.